# ALABAMA COASTAL AREA MANAGEMENT PROGRAM

### AMENDMENT 1

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IAMA DEPARTMENT OF ECONOMIC AND COMMUNITY AFFAIRS
OFFICE OF STATE PLANNING AND FEDERAL PROGRAMS
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#### UNITED STATES DEPARTMENT OF COMMERCE

#### AMENDMENT I

#### ALABAMA COASTAL AREA MANAGEMENT PROGRAM

#### Prepared for:

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Management
National Oceanic and Atmospheric
Administration
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bу

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#### SUMMARY

#### Summary of Alabama Coastal Area Managment Program

The Alabama Coastal Area Management Program was developed as a management tool for the protection and enhancement of Alabama's Coastal Area land and water resources. Alabama's coastal area is limited to those lands and waters seaward of the 10 foot contour but north of the 3 mile coastal boundary. Authority to develop and implement this program was originally granted to the Alabama Coastal Area Board (CAB) in 1976. This board completed the planning process for the program, had it ratified in September 1979 and completed the first two years of implementation. In 1982 the CAB was abolished and the Coastal Area Program responsibilities were divided between two agencies, the Alabama Department of Economic and Community Affairs, the Office of State Planning and Federal Programs (ADECA) and the Alabama Department of Environmental Management (ADEM).

Title 9 chapter 7 Section 10 through 22 (\$9-7-10--22) of the Alabama Code provides the statutory authority to develop and implement a management program for the Alabama Coastal Area. This legislation granted the authority to review all uses which have a direct and significant impact on the Coastal Area. More specifically \$9-7-10 et.seq. authorized the state's Coastal Management Agencies to require all activities in the coastal area to be consistent with the Management Program. To carry out this charge the Alabama Department of Environmental Management must review applications for permits and related activities in the coastal area and make a determination of the activities consistency with the management program.

The basis for the review of uses for consistency or for a permit are the rules and regulations found in Part II, Chapter 4 of this document. Aside from a reliance on several existing statutes and standards, Coastal Management rules and regulations are divided into 3 categories: 1) general rules and regulations; 2) resource use rules and regulations, including regulations for:

- o siting, construction and operation of energy facilities
- o dredgge and filling
- o shoreline erosion
- o public access
- o natural hazards, and
- o solid waste disposal

Natural resources rules and regulations, including regulations for:

- o water quality
- o wetlands and submersed grassbeds
- o air quality
- o beaches and dunes
- o water resources
- o protection of cultural resources
- o fisheries management
- o wildlife and wildlife habitats

Within the Coastal Area, specific areas have been designated which require attention beyond the general provisions of the management program. These two areas, the Port of Mobile and the Moible - Tensaw River Delta have been designated as geographic areas of particular concern (GAPC). Use priorities as well as a description in each GAPC have been provided in Part II, Chapter Four.

Specific provisions and procedures have been established for the consideration of the national interest in the siting of facilities as well as the determination of Federal consistency.

#### What the Program Will Achieve

In furtherance of the national goals of the Federal Coastal Zone Managment Act (CZMA) and the goals and policies of the State of 81 Alabama, the Alabama Coastal Area Management Program (ACAMP) was designed to accomplish the following objectives through the receipt of implementation funds:

- o Improve the management capabilities in the coastal area.
- o Add specificity and predictability to the reveiw for compliance with the management program.
- o Increase the states ability to devlop methods to solve problems within the Coastal Area.
- o Continue to clarify the permitting process by interaction with the public and improving the awareness of ADEM's permit procedures and by improving interagency coordination.
- o Provide the necessary scientific data to determine "present levels" which is the basis for a number of the ACAMP's regulations.
- o Provide for adequate consideration of the national interest.
- o Assure continued consistency with the Program of all Federal and State actions in the coastal zone through a review of Federal and State actions that affect the coastal area.

#### Program Revision

Prior to the enactment of the coastal management program, concern was frequently voiced about another layer of permits and the need for a consolidated permit review process. This need was echoed by the lack of cohesiveness and the costly duplication of effort that existed in the permit review process.

During the 1982 regular legislature session, Act 82-612 (codified as Title 22, Chapter 22A, Sections 1-13) created one stop permitting in the State of Alabama. This legislation combined the permit related functions of most state environmental agencies. As a result, the Coastal Area Board was abolished. Its permit, enforcement, monitoring and related functions were transferred to the Department of Environmental Management, and all others were transferred to the Alabama Department of Economic and Community Affairs, Office of State Planning and Federal Programs. This change mandated some basic revisions to the Coastal Management Program. However, this consisted primarily of informational updates, program clarification and specifying the agencies that would be responsible for carrying out the Alabama Coastal Management Program (ACAMP) and add a public notice and records provision, and amend the construction setback line.

## PART I PURPOSE AND NEED

#### PART I

#### PURPOSE AND NEED

In response to intense pressure, and because of the importance of coastal areas of the United States, Congress passed the Coastal Zone Management Act (P.L. 92-583) (CZMA) which was signed into law on October 27, 1972. The Act authorized a Federal grant-in-aid program to be administered by the Secretary of Commerce, who in turn delegated this responsibility to the National Oceanic and Atmospheric Administration's (NOAA) Office of Coastal Zone Management (OCZM). The Coastal Zone Management Act of 1972 was substantially amended on July 26. 1976 (P.L. 94-370). The Act and the 1976 amendments affirm a national interest in the effective protection and development of the coastal zone by providing assistance and encouragement to coastal states to develop and implement a rational program for managing the coastal areas.

Broad guidelines and the basic requirements of the CZMA provide the necessary direction to states for developing coastal management programs. These guidelines and requirements for program development and continued approval require the state to establish a management program that:

- Identifies and evaluates those coastal resources recognized in the Act that require management or protection by the state;
- (2) Re-examines existing policies or develops new policies to manage these resources. These policies must be specific, comprehensive and enforceable, and must provide an adequate degree of predictability as to how coastal resources will be managed.
- (3) Determines specific uses and special geographic areas that are to be subject to the management program, based on the nature of identified coastal concerns. Uses and areas to be subject to management should be based on resource capability and suitability analyses, socio-economic considerations and public preferences;
- (4) Identifies the inland and seaward areas subject to the management program;
- (5) Provides for the consideration of the national interest in the planning for and siting of facilities that meet more than local requirements; and
- (6) Includes sufficient legal authorities and organization arrangements to implement the program and to insure conformance with it.

In arriving at these substantive aspects of the management program, states were obliged to follow an open process which involves providing information to and considering the interests of the general public, special interest groups, local governments, and regional, state, interstate and Federal agencies.

Section 306 of the CZMA authorizes federal assistance to coastal states and territories for the implementation of its Coastal Management Program. After receiving program approval from OCZM, Alabama received its first 306 grant in 1979 for a two year implementation effort. A second supplemental grant was awarded in September 1982.

Section 307 of the Act stipulates that Federal agency actions shall be consistent, to the maximum extent practicable, with approved State management programs. Section 307 further provides for mediation by the Secretary of Commerce when a serious disagreement arises between a Federal agency and a coastal state with respect to a Federal consistency issue.

An amendment to Alabama's coastal legislation in 1982 necessitated the revision of the states Coastal Management Program document. However, this revision consists primarily of updates, clarifications and changes in the names of the agencies implementing the program. In accordance with NEPA guidelines an EIS is not required with this revision of the ACAMP.

## PART II ALABAMA COASTAL AREA MANAGEMENT PROGRAM

#### CHAPTER ONE

#### EXECUTIVE SUMMARY

#### SECTION I. IMPORTANCE OF THE COASTAL AREA

After careful deliberation and study, the Alabama Legislature, in adopting the Alabama Coastal Area Act 534 (Title 9, Chapter 7, Sections 10 through 22 of the Code of Alabama), in 1976, as amended and reaffirmed in the Alabama Environmental Management Act (AEMA) 82-612 (Title 22 chapter 22A of the Code of Alabama) in 1982 found that:

- 1. The coastal area is rich in a variety of natural, commercial, recreational, industrial, and aesthetic resources of immediate and potential value to the present and future well-being of the state.
- 2. There are increasing and competing demands upon the lands and waters of the coastal area occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources.
- 3. The coastal area and the fish, shellfish, other living marine resources, and wildlife therein are ecologically fragile and consequently vulnerable to destruction by man's alteration.
- 4. Important ecological, cultural, historic, and aesthetic values to the coastal area are essential to the well-being of all citizens.
- 5. Special natural and scenic characteristics may be damaged by ill-planned development.
- 6. There is a state interest in the effective administration, beneficial use, protection, and development of the coastal area.
- 7. In light of competing demands and the urgent need to balance development for the preservation of the natural systems in the coastal area, the key to more effective protection and use of land and water resources of the coastal area is to encourage the state to exercise its authority for improved and better methods of utilizing the lands and waters in the coastal area by developing, in cooperation with counties and municipalities and other vitally affected interests, land and water use programs for the coastal area, including unified policies, criteria, standards, methods, and processes for dealing with land and water use.

As a means of reemphasizing the need for unified policies and strategies for protecting the integrity of our coastal area, the 1982 regular session of the state legislature passed Act 82-612 which bears the legislative intent "to recognize the unique characteristics of the Alabama coastal region and to provide for its protection and enhancement through a continued coastal area program".

The coastal area with some 400,000 acres of bays and estuarine waters, 121,000 acres of wetlands, 130 identified species of birds, a commercial fishing catch with a final value estimated at \$148 million, and a registration of over 23,300 recreational boats, also has major industrial and municipal sources discharging 170 million gallons each day of various waste products into coastal waters, a booming second home construction business throughout the area's waterfront, a maintenance dredging requirement producing 7 million cubic yards of spoil material annually, the prospects of increased energy-related development (coal and oil), and the possibilities of additional growth related to Tennessee-Tombigbee Waterway. As competition for resources becomes more intense, special efforts must be made to provide methods to resolve potential conflicts in order to allow an opportunity for fishermen to harvest the rich coastal fishery yields while industries use the water resources for process water, transportation and some waste assimilation to provide employment opportunities for local residents. A balance must be achieved which sustains economic development on one hand and which protects natural resources on the other.

The Alabama Coastal Management Program provides a general management framework to address the many concerns within the coastal area. A program of this type is beneficial to all coastal interests, environmental, industrial, conservational, preservational, commercial, and governmental.

In response to State legislation, the Alabama Coastal Management Program was developed to protect and enhance its coastal resources. The first draft, the Workshop Draft, was made available for public review and comment in 1978. Based on all comments received plus the addition of new planning elements, the second draft, the Hearing Draft, was prepared. The Hearing Draft explained, in more detail, the framework for achieving the wisest use of our finite coastal resources in Alabama. Based on the comments received, the third draft, the Draft Environmental Impact Statement, was prepared. Again, based on all comments received, the Final Environmental Impact Statement was prepared in 1979.

The State of Alabama has now been afforded the opportunity to improve its Coastal Management Program by combining most coastal area permit, regulatory and enforcement functions into one agency, the Alabama Department of Environmental Management (ADEM), and transferring all other functions and responsibilities of the Alabama Coastal Area Management Program (ACAMP) to the Alabama Department of Economic and Community Affairs (ADECA's). This draft reflects those minor realignments in ACAMP which are needed to document the change in the implementation process of the program as mandated by the passage of Act 82-612 (22-22A-1 et. Seq.).

#### SECTION II. LEGAL BASIS FOR PROGRAM DEVELOPMENT

#### A. Alabama Law

The State of Alabama has recognized the intense stress on coastal resources. To deal effectively with these burgeoning pressures, the 1976 Regular Session of the Alabama Legislature passed Act Number 534 (§9-7-10 through 22) which was further amended by Act 82-612 (§22-22A-1 through 13). The primary purpose of this act and it's amendments are:

...To promote, improve and safeguard the lands and waters located in the coastal areas of this state through a comprehensive and cooperative program designed to preserve, enhance, and develop such valuable resources for the present and future well-being and general welfare of the citizens of this state.

In order to accomplish the above purpose, the legislature set forth the following State policies to guide the efforts of the Coastal Area:

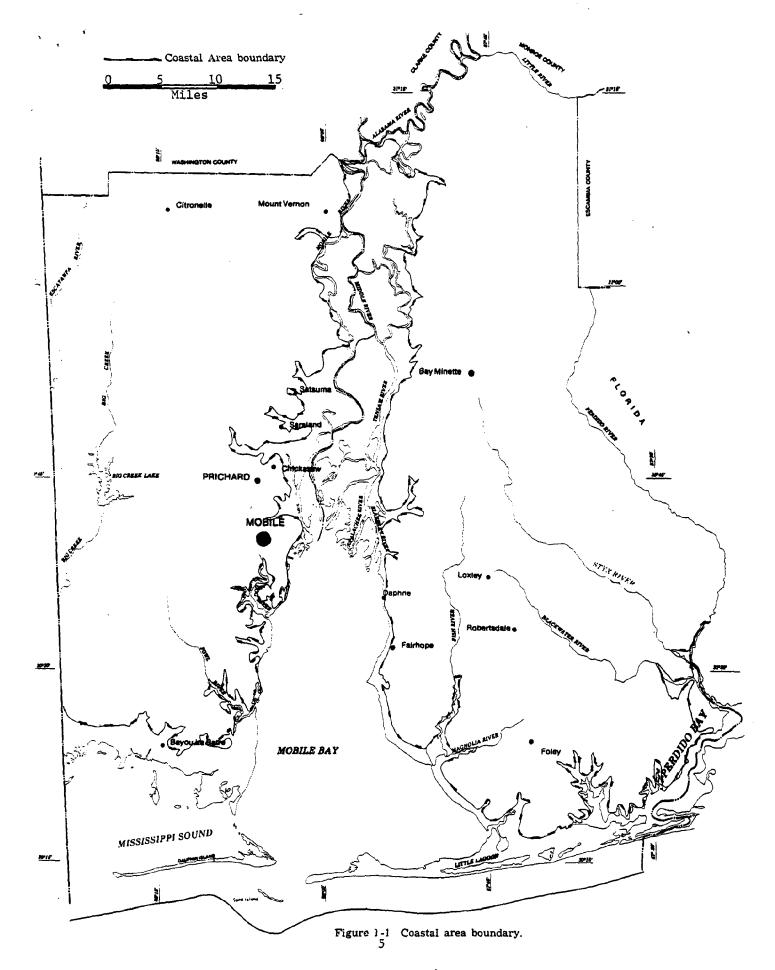
- 1. To preserve, protect, develop, and where possible, to restore or enhance, the resources of the State's coastal area for this and succeeding generations.
- 2. To encourage and assist counties and municipalities wherever applicable to exercise effectively their responsibilities in the coastal area through the development and implementation of administration programs to achieve wise use of the land and water resources of the coastal area giving full consideration to needs for economic development, as well as to ecological, cultural, historic, and aesthetic values.
- 3. To assure that in development of the state's coastal area adequate consideration is given to such uses of the coastal area as the establishment of harbor facilities for the receiving of oil, gas and other commodities from ships and tankers; pipelines from such ports; and utility plant sites, utility generation, transmission, distribution, and transportation facilities.
- 4. To urge that all state agencies engaged in programs affecting the coastal area cooperate and participate with local governments and regional agencies in effectuating the purposes of this Act; and
- 5. To encourage the participation of the public, of federal, state, and local governments and of regional agencies in the development of coastal area management programs. With respect to implementation of such management programs, it is the state's policy to encourage cooperation among the various state and regional agencies including the establishment of interstate and regional agreements, cooperative procedures and joint action particularly regarding environmental problems.

Act 534(§9-7-10--22 Code of Alabama) created a Coastal Area Board for the purposes of implementing the provision of the Act in accordance with legislative intent. This board consisted of the Director of the Office of State Planning, Director of Marine Resources Division of the Department of Conservation and Natural Resources; a member of the Mobile City Commission; member of the Mobile County Commission; State Geologist; Director, Marine Environmental Sciences Consortium; an official of a municipality of Baldwin County; the Chairman of the Coastal Area Advisory Committee and a member of the Baldwin County Commission. The code also established the coastal area boundary.

Based on the outcome of a series of public meetings in the coastal area, the Alabama Legislature established the boundary of the coastal area at the 10-foot contour (Figure I-1).

The Legislature also described particular elements that must be contained in Alabama's program. These elements include:

- 1. Identification of all of the state's coastal resources;
- 2. Evaluation of these resources in terms of the quality, quantity, and capability for use both now and in the future;
- 3. Determination of the present and potential uses and the present and potential conflicts in the uses of each coastal resource;
- Inventory and designation of areas of particular concern within the coastal area;
- 5. Broad guidelines on priority of uses in particular areas;
- 6. Provision for adequate consideration of the local, regional, state and national interests involved in the siting of facilities for the development, generation, transmission and distribution of energy, adequate transportation facilities and other public services necessary to meet the requirements which are other than local in nature.
- 7. Provision for consideration of whether a proposed activity of an applicant for a federal license, or permit complies with the state's coastal program and for the issuance of notice to any concerned federal agency as to whether the state concurs with or objects to the proposed activity.
- 8. Adequate provision for public notice, public hearings, and the judicial review as provided for under Alabama law.
- 9. The management program shall determine permissible land and water uses which have a direct and significant impact within the boundaries of the coastal area and must give due consideration to requirements for agriculture, industry,



commerce, resource conservation, residential development, recreation, extraction of mineral resources and fossil fuels, harvesting of timber and pulpwood, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources.

Act 82-612 of the 1982 regular session of the State Legislature abolished the Coastal Area Board and created a more comprehensive structure for the implementation of the Alabama Coastal Area Management Program. This act amended § 9-7-10-22 by transferring the permit, regulatory, and enforcement related functions of the Coastal Management Program to the Alabama Department of Environmental Management and all other functions to the Alabama Department of Economic and Community Affairs, Office of State Planning and Federal Programs.

#### B. Federal Law

Throughout the past century, pressures upon coastal resources of the entire nation have been intensifying at an ever increasing rate. In a report to the President and the Congress, the National Advisory Committee on Oceans and Atmospheres states:

... The problems of the coastal zone now have too direct an impact upon too many people to be conveniently swept under the rug... The regulation of man's activities in the coastal zone involves balancing social, economic, political, and national security needs of great complexity, but balance them we must, lest the pressures on the coastal areas build to the bursting point.

In response to this growing awareness of stress on the nation's coastal resources, Congress passed the Coastal Zone Management Act. This act was signed into law by the President in 1972 (P.L. 92-583) and amended in 1976 (P.L. 94-370) to give it additional responsibilities. Congress declared it to be the national policy "to preserve, protect, develop, and where possible, to restore or enhance the resources of this nation's coastal zone for this and succeeding generations..."

Each coastal state has the responsibility to develop its own coastal management program on a voluntary basis. The Coastal Zone Management Act provides financial assistance to aid each state in the development and implementation of its program. These funds were provided on a matching basis 20 percent by the state and 80 percent from the Federal Government. Alabama's planning process took four years, and the implementation phase followed. Alabama began planning its program in 1974, and implementation was begun in September 1979.

In addition to providing financial assistance for the development and implementation of state coastal management programs, the federal law also provides financial assistance to state and local governments through the Coastal Energy Impact Program (CEIP). Alabama received its first CEIP grant in 1976. Since that time the state and its local

governments have received approximately \$4.0 million in grant and loan assistance.

#### SECTION III. Program Revision

To carry out the provisions and policies of 89-7-10--22 as amended by Act 82-612, the legislature established the Alabama Department of Economic and Community Affairs, Office of State Planning and Federal Programs (ADECA) as the agency responsible for all non-permit, non-regulatory and non-enforcement provisions of the Alabama Coastal Management Program. The Act further designates the Alabama Department of Environmental Management (ADEM) as the Agency responsible for implementing the permit, regulatory and enforcement functions of the ACAMP. Act 82-612 (822-22A-1 et. seq.) establishes a Coastal Resources Advisory Committee to advise the ADEM and ADECA on all matters concerning the coastal area.

#### A. Office of State Planning and Federal Programs (841-9-205--214)

On September 8, 1982 the Governor designated the Office of State Planning and Federal Programs as the lead state agency for Alabama's Coastal Management Program. The ADECA was created (\$41-23-1-7) in 1983 by combining the OSPFP and other planning and assistance related state agencies. The ADECA is primarily responsible for overall program implementation and coordination and will be directly responsible for all program activities which are not related to permitting, regulatory, or enforcement activities.

The Alabama Department of Economic and Community Affairs was created within the Office of the Governor and directly under his supervision and control. A Chief Administrative Officer is appointed to serve as Director, and such person shall serve at the discretion of the Governor.

The powers and duties of the ADECA's Office of State Planning (\$41-9-211 as amended), are varied and include but are not limited to the following:

- 1. Develop coordinated long range comprehensive State plans and policies for the state's growth;
- 2. To encourage overall state agency program coordination,
- To assist the State and other entities in securing federal financial assistance;
- 4. To review and comment on local areawide applications for federal assistance; and
- 5. To serve as an official liaison for the State in respect to federal assistance programs.

B. Alabama Department of Environmental Management Act (82-612 as amended)

As previously stated, the AEMA provides for the transfer of the permit, regulatory, and enforcement functions of the ACAMP to ADEM (Section 9) and the transfer of the other functions to ADECA (Section 10).

The AEMA (Section 6) creates a seven member Environmental Management Commission whose duties are:

- To select a Director for the Alabama Department of Environmental Management and to advise the Director on environmental matters which are within the Department's scope of authority;
- 2. To establish, adopt, promulgate, modify, repeal, and suspend any rules, regulations or environmental standards for the Department which may be applicable to the State as a whole or any of its geographic parts;
- 3. To develop environmental policy for the State, and
- 4. To hear and determine appeals of administrative actions.

The Commission is made up as follows:

- One member shall be a physician licensed to practice medicine in the State of Alabama and shall be familiar with environmental matters;
- One member shall be a professional engineer registered in the State of Alabama and shall be familiar with environmental matters;
- 3. One member shall be an attorney licensed to practice law in the State of Alabama and shall be familiar with environmental matters;
- 4. One member shall be a chemist possessing as a minimum a bachelor's degree from an accredited university or a veterinarian licensed to practice veterinary medicine in the State of Alabama and shall be familiar with environmental matters;
- 5. One member that has been certified by the National Water Well Association Certification Program;
- 6. One member shall be a biologist or an ecologist possessing as a minimum a bachelor's degree from an accredited university and shall have training in environmental matters; and
- 7. One member shall be a resident of the State for at least two years but shall not be required to have any specialized experience.

This Commission shall select a Chairman from among its members and shall meet at least once every two months.

In addition, the AEMA (Section 13) establishes a Coastal Resources Advisory Committee to advise ADEM and ADECA on all matters concerning the Coastal Area. This section establishes the initial members of the Coastal Resources Advisory Committee as the former members of the Coastal Area Board who will initially serve for one year beginning Octber 1, 1982. At the end of the first year the members shall be as follows:

- 1. One member shall be a member of the Mobile City Commission and shall be selected by that Commission;
- 2. One member shall be a member of the Mobile County Commission and shall be selected by that Commission;
- 3. One member shall be a member of the Baldwin County Commission and shall be selected by that Commission;
- 4. One member shall be an official of a municipal corporation in Baldwin County and shall be selected by the Baldwin County Mayors Association;
- 5. One member shall be the Commissioner of Conservation and Natural Resources, who may designate an employee of his department to represent him on the Commission;
- 6. One member shall be the State Geologist who may designate an employee of his agency to represent him on the Committee; and
- 7. One member shall be the Director of the Marine Environmental Sciences Consortium.

The term of each of these members of the Coastal Resources Advisory Committee shall be consistent with his elective or appointive office. Additional members of this Committee may be appointed by the Governor for terms not to exceed 4 years.

The Committee shall meet initially to select a Chairman and subsequent meetings shall be at the call of the Chairman of the Committee or the Director of the ADECA.

As previously discussed, the ADEM is responsible for all permit, regulatory, and enforcement functions of the Coastal Area Management Program. These functions include:

- Review of federal activities or projects for consistency with the ACAMP;
- 2. Review of federal permits for consistency with the ACAMP;
- 3. Review of OCS oil and gas development plans;

- 4. Review of federal assistance to local governments for consistency with the ACAMP;
- 5. Review of permits by other State agencies for consistency with the ACAMP; and
- 6. Review and issue or deny permits for ADEM or ACAMP permitted uses.

#### SECTION IV. PROGRAM COMPLETION PROCESS

The Alabama Coastal Management Agencies (ADECA and ADEM) have completed an intensive review process as planned. Such a review process makes certain that the final program and revisions thereto reflects the feelings and concerns of the people of Alabama and provides for a balanced approach to economic development and coastal resource protection.

The workshop's draft was distributed in August 1978, and a series of public hearings were held in September. The Workshop Draft presented a discussion of the issues of the Alabama Coastal Area, a statement of proposed ACAMP policies, a description of the uses subject to the management program, a description of the special management areas, and a discussion of the legal authorities.

Based on all written comments received and testimony presented at the hearings, appropriate changes were made in the Workshop Draft, and additional work elements were completed -- management authority of the Coastal Area Board; review procedure for state permits, federal consistency, and uses that presently required no state or federal permit, operational rules and regulations; administrative rules and regulations; national interest, full participation and continuing consultation.

The Hearing Draft was prepared based upon revisions of the Workshop Draft and the additional elements outlined above. This document, the second step in the review process, represented the first complete draft describing the proposed management program. Copies of this document were distributed in February 1979 for review by governmental agencies, organizations, and interested citizens, and a public hearing on the hearing Draft was held in March 1979.

The third step in the process was the presentation of the Draft Environmental Impact Statement (DEIS). The DEIS included the management program which had been revised based on public comment on the Hearing Draft, the environmental impact assessment of the management program, and OCZM's findings about whether the Alabama management program met the requirements for federal approval. The DEIS was distributed in late April 1979 and a public hearing was held in June to receive comments from persons interested in the Alabama Coastal Area Management Program.

After careful analysis of all comments, the Draft Environmental Impact Statement was revised to become the Final Environmental Impact Statement, the last step in the review process. Upon adoption by the Coastal Area Board and approval by the Governor, the Final Environmental Impact Statement was submitted to the Office of Coastal Zone Management for final approval in August 1979. The program was approved on September 29, 1979.

The passage of Act 82-612 in 1982 by the Alabama Legislature abolished the Coastal Area Board which had responsibility for the implementation of Alabama's Coastal Management Program, and transferred those responsibilities to the Office of State Planning and Federal Programs now ADECA and the Alabama Department of Environmental Management. As a result the management program document is being revised to reflect the role of these ACAMA's in the programs implementation.

#### CHAPTER TWO

#### COASTAL ISSUES

Coastal Alabama has plentiful natural and manmade resources. Because of these resources, the Coastal Area has experienced a high growth rate in recent years, which is expected to continue or perhaps increase in the years to come. Increasing competition for these finite resources by economics, social, recreational, and natural uses is evident.

A summary of some of the major coastal issues is presented below. No attempt has been made to describe all coastal issues; rather, the following narrative is a brief overview of the wide array of concerns which may face coastal residents.

#### SECTION I. COASTAL RESOURCE USE ISSUES

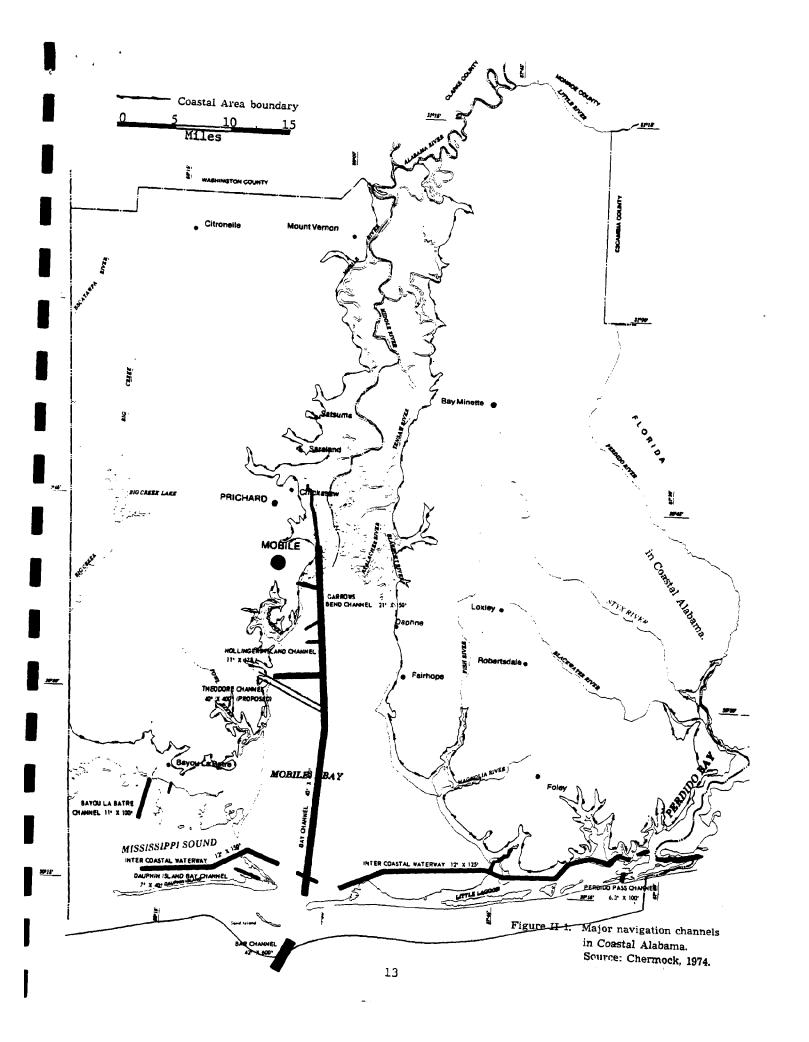
#### A. Port Development

The Port of Mobile plays a vital role in the health of the coastal economy. Besides the state docks employing approximately 800 individuals in 1982 with an annual payroll in excess of \$17 million, and operating with revenues exceeding \$52.8 million, and a net profit of \$16.4 million, Mobile's port facilities offer an impetus to industrial development by increasing access to national and international markets. The continuous upgrading and development of the port facilities will allow the port to continue to benefit the local and state economic system in the future.

In order to function properly, the port must maintain surface water transportation arteries in prime condition (Figure II-1). Existing maintenance dredging operations carried out by the Corps of Engineers produce large volumes (7 million cubic yard annual average, 1960-1970) of dredge spoil materials which must be disposed of in an environmentally suitable and cost-effective manner. This task has become increasingly difficult in recent years as existing spoil-disposal sites are reaching their capacity. In order to meet the needs for spoil disposal from maintenance dredging and ship channel expansion, it is imperative that a long-range plan of spoil disposal, based upon sound environmental and economic considerations, be developed and implemented.

#### B. Industrial Development

Industrial development provides many benefits to the community in terms of employment and support for the local economy. Manufacturing activities in coastal Alabama employed 34,648 in 1980, 26.1 per cent of the total work force. In addition to providing direct employment, manufacturing enterprises or basic industries support employment in other segments of the coastal economy. Several events are anticipated or have occurred which could provide for increased economic growth



within the area: 1) expanding chemical industrial base, 2) increased production of oil and natural gas, and 3) the development of the Tennessee-Tombigbee Waterway. A conservative estimate is that in the year 2000, 37,100 people will be employed in manufacturing, 20 per cent of the total work force.

Studies prepared by the South Alabama Regional Planning Commission in 1975 indicate that approximately 4,000 additional acres of industrial land will be required to satisfy the anticipated industrial requirements for the year 2000. A challenge faces the area in developing the region's industrial base in a manner which will not destroy the resources that are so vital to the overall character of the coastal area. Industry can lower the utility of adjacent properties for certain uses, produce toxic substances which damage wildlife and human health, and alter an area's aesthetic appeal. These unpleasant and periodically dangerous side effects deserve recognition and consideration in a management decision-making process.

Since heavy industrial activity can lower property values for residential and recreational uses, industrial activities should be located in designated industrial sites which can provide the necessary water, sewer and transportation access to support the industry. These sites should be chosen with due consideration to their impact on natural resources, water quality and other land uses. Industrial activities of a hazardous nature should be located away from population centers to avoid the possibility of a disaster.

Several types of industry such as port and coal-handling facilities require access to navigable water. Water-dependent industries of this nature should have priority over other industrial activities for water-front industrial sites.

One of the major problems facing future industrial devlopment in the Coastal Area is waste discharge. Several segments of coastal waters, notably Lower Mobile River, Chickasaw Creek, Three Mile Creek and portions of Mobile Bay, are and have been stressed by waste discharges. Since these water bodies have a finite assimilative capacity, new and existing industry will need to use improved treatment processes in existing industrial areas.

#### C. Urban Development

Both Mobile and Baldwin counties are experiencing rapid population and consequently, urban growth. Baldwin County's overall population increased 32.1 percent during the period 1970-1980; Mobile County's growth was 14.8 per cent. A significant portion of this growth is occurring within the Coastal Area.

The scheduled completion of Interstate 65 across the northern tier of the two counties in combination with the already completed Interstate 10 has the potential of opening up large tracts of land for residential and industrial development, some within the Coastal Area.

Water and sewer service and transportation access are important determinants of the spatial distribution and intensity of development. The Mobile Area Land Use Model (MALUM) identified a strong correlation between residential development and sewer service in Mobile County (R-.931) and water service in Baldwin County (R-.872). The extension of infrastructure to locations adjacent to wetlands or a flood prone area can provide an impetus to development which could alter or destroy these natural areas. Corridor selection and water and sewer extension decisions should consider environmental and land use ramifications which will result from extensions of the infrastructure.

#### D. Energy Development

Energy-related activity in the Mobile-Baldwin County area includes hydrocarbon exploration, appraisal, and production from wells; hydrocarbon refining, processing, transmission, and storage; electric generating plants; coal handling facilities; electric generating plants; coal handling facilities; major transmission lines and pipelines; infrastructure and other energy support facilities, the bulk of which is taking place in Mobile County.

The recent discovery of significant quantities of natural gas has sparked a boom in oil field activity in the coastal waters of the State, particularly lower Mobile Bay, the Mobile-Tensaw River Delta, and in the outer continental shelf adjacent to the State's coastal waters. Several lease sales in state waterbottoms and the Outer Continental Shelf have taken place. Exploration has been widespread and production plans are being permitted. One oil field service base has been established, and as the level of oil field activity increases, it is expected that more will be created.

The Alabama State Docks coal-handling facility has completed the second phase of an expansion effort that will triple its capacity. With the advent of the Tennessee-Tombigbee Waterway, it is anticipated that the Port of Mobile will become a major transshipment port of even greater nationwide importance.

Due to their heavy industrial nature, energy facilities such as electric generating plants, refineries, and oil/gas processing, treatment and storage facilities, can have serious ramifications for environmental processes and associated land uses if they are developed without extensive care and forethought. Construction of such facilities will likely have an impact on the environment, varying with the choice of site and the size of the area disturbed.

The development, handling, and processing of energy resources and the siting of new and existing energy-related facilities is now impacting the living and waterfront resources of the Coastal Area, and the economy of the Coastal Area, State, and nation. As the level of energy-related activity grows, its positive and negative impacts are expected to grow correspondingly.

#### E. Mining and Mineral Resources

Limited quantities of clay, sand, and gravel are mined from Alabama's coastal river-bottoms and stream cuts. Other than oyster shell mining, the sole permitted mining operation of this type in the coastal area is a sand and clay operation located on the western edge of the Mobile-Tensaw River Delta. Although heavy mineral sands are known to lie in offshore Alabama, the resource is not being exploited at this time.

Over 40 million cubic yards of oyster shell are available for mining from coastal water bottoms. The removal and washing of mined oyster shell disturbs bottom sediments and habitat.

#### F. Water Quality

The water quality management process in Alabama has been studied for a number of years under federal and state programs. Completed in May 1978 and revised in 1982, the Mobile 208 Areawide Waste Treatment Management Plan is the most recent and intensive analysis. This study analyzed point and nonpoint sources of pollution as well as various waste treatment management alternatives. The maintenance of water quality is one of the more complex and demanding tasks in the coastal area.

A primary focus of water quality management programs has been to devise ways to provide for swimmable and fishable waters. Although significant efforts have been undertaken to analyze the chemical and hydrological characteristics of water, a method of evaluating the long-term impacts of our waters has not been developed. Without a biological baseline analysis to show what is presently normal in the coastal system, it is difficult to evaluate progress in achieving the goal of maintaining water quality that will support existing biological processes. During the first two years in the 306 CZM program the Coastal Area Board developed a methodology for benthic sampling to determine the present levels of benthic organisms in coastal waters.

Thousands of chemical substances have been developed by man, but knowledge of the toxicity of these substances to plants and animals is limited. As the Environmental Protection Agency completes its research program and evaluates toxic substances, standards are expected to be adopted which can be applied to the discharge of these substances to coastal waters with more certainty that toxic substances are being properly regulated.

The Mobile 208 Study found several water segments that are currently under stress including portions of the Lower Mobile River, Chickasaw Creek, Three Mile Creek and Mobile Bay.

Within the two coastal counties of Alabama there are 19 municipal waste water dischargers that discharge more than 54 million gallons per day (mgd) (Table II-1), 38 industrial dischargers with National Pollution Discharge elimination system permits that discharge about

Plant	Treatment Description	Average Flow	Receiving Water
		<del></del>	
Mobile County		(MGD)	
McDuffie Island/Mobile	Activated sludge Pure O	28	Mobile Bay
Three-Mile Creek/Mobile	High rate trickling filter with chlorination	10	Three-Mile Creek
Bill Ziebach/Mobile	High rate trickling with chlorination	2	Mobile Bay
Grover Street/Prichard	High rate trickling filter with chlorination	4.08	Three-Mile Creek
Eight Mile/Prichard	High rate trickling filter with chlorination	1.5	Eight-Mile Creek
Chickasaw	Two-cell lagoon (parallel)	1.5	Chickasaw Creek
Saraland	Activated sludge	•5	Norton Creek
Dauphin Island	Trickling filter and chlorination	. 25	Aloe Bay
Bayou La Batre	Conventional activation sludge	ted 1.0	Mississippi Sound
Citronelle	One-cell lagoon	.2	Puppy Creek
Hog Bayou	Extended Air	•3	Hog Bayou
Baldwin County			
Gulf Shores	Aerated lagoon and polishing pond	1.0	Intracoastal Waterway
Robertsdale	Rotated biological contractor	•5	Rock Stream
Eastside/Bay Minette	Primary clarification	on 1.0	Hollinger's Creek
Westside/Bay Minette	Two-cell lagoon	.225	Martin Branch
Loxley	Three-cell lagoon	.16	Corn Branch Creek
Foley Lagoon Fairhope	Single-cell lagoon Extended aeration (to 1.2 MGD) activa		Wolf Creek Mobile Bay
Spanish Fort	sludge and chlorina Three-cell lagoon	.067	Spanish Fort Branch
TOTAL		54.557	

130 mgd (Table II-2), 59 semi-public and private dischargers that discharge more than 3 mgd and other miscellaneous dischargers of sanitary wastes, cooling waters, boiler blowdown, rain and runoff (Table II-3). These point source dischargers are indicated in Figure II-2.

With the increase in activity from gas exploration by Mobil Oil Company off the coast of Dauphin Island, pollution from this activity is a significant concern. Because of the sensitive ecologic systems in the area, extreme care must be taken to make sure no harmful environmental impacts result from oil and gas exploration, transmission or facility development.

Disposal of dredge spoil is another aspect of water quality to be considered. For example, constructing and maintaining the Mobile Ship Channel and Theodore complex Channel can result in modification of the bays and estuaries, thereby affecting natural circulation and salinity patterns within the Mobile Bay system.

Violations of water quality standards for total coliforms have been found in many coastal water segments, resulting in the closing to harvest of over 72,000 acres of water-bottoms. Since these areas were closed during the early 1950's, no current studies have been carried out to determine if these areas should still be closed to harvesting. The most significant contributor of pathogenic pollution in the coastal area is the Mobile metropolitan area which significantly impacts upper Mobile Bay. Periodic closings of other oyster reefs occur, and they are governed by the National Shellfish Sanitation Program, Manual of Operations, Part I.

Based on the results of the Mobile 208 Areawide Waste Treatment Management Plan, the principal water quality problems occur in the western portion of the Mobile Bay water frontage and all of the Mobile River system. The most frequent occurring violations are for dissolved oxygen and fecal coliform. Sampling results show that Three Mile Creek, Chickasaw Creek, Hollinger Creek, and Mobile River experience the most frequent dissolved oxygen violations.

Little data is available concerning the impact of existing thermal discharge. The Barry Steam Plant discharges 1,170 million gallons of cooling waters each day. The body temperature of most aquatic organisms is regulated by water temperature. If the temperature of the receiving waters is too high, aquatic organisms can be killed. Further, the passage of cooling waters through a plant entrains millions of planktonic eggs and larvae of fishes and invertebrates.

Pesticides which are washed into streams from agricultural operations and trace metals are of particular concern. They can be absorbed by living things and accumulate in the bodies of estuarine animals, affecting their health and reproduction capacity. They may be harmful to man if ingested.

Table II-2 Existing industrial wastewater treatment plants

Company	Present Treatment Process	Reported Process Wastewater Discharge (GPD)	
Design Design Wille	na - la compt		
Barber Pure Milk	Discharge to STP# Grease separator, aerat	da 20 000	
SARS		ion 20,000	
Acuila Confood	basin, polishing pond Screening	1,000	
Aquila Seafood - Bon Secour	Screening	1,000	
Plash's Seafood	Screening	3,000	
- Bon Secour	percentus	٦,000	
Grass Seafood	Screening	1,000	
- Bon Secour	pereentug	1,000	
- Bon Secour			
Oyster Bay Seafood	Screening	1,000	
- Bon Secour	percentus	1,000	
Star Fish and Oyster	Screening	288,000	
- Mobile	Scieening	200,000	
Gulf Coast White			
Knight Seafood	Screening	13,000	
- Gulf Shores	COLCONING	1,7,000	
Bon Secour Fisheries	Screening	14,000	
- Bon Secour	201001116	14,000	
Gulf Lumber	Complete recycle	0	
Crown Zellerbach	Separation, flocculation	-	
orona horaci ocon	aeration, spray pond	10,000	
Alabama Wood Treating	Separation, flocculation		
	evaporation	- <b>,</b>	
International Paper	In-plant water reduction	n and	
	reuse, cooling towers,		
	primary clarification of		
	inorganic and organic settleable		
	solids, sludge dewatering of		
	organic settleable solids and		
	burning as fuel in boilers for		
	steam and electrical po	wer	
	regeneration, emergency	clarifier,	
	pumping to NMIWTP, seco	ndary	
	waste treatment measure	ement	
	sampling and release	33,200,000	
	·		
Scott Paper	Primary and final		
	clarification, aeration	tanks,	
	aeration basin, sludge	10 170 000	
	dewatering	42,430,000	
Stone Container	Screening, clarification		
settling, and aeration basins,			
	spray irrigation, and w	vater	
	reuse		

Table II-2 Existing industrial wastewater treatment plants (continued)

Stauffer Chemical - LeMoyne	Local neutralization, settling, o separation, Hg. removal;	il
Diamond Shamrock	central aeration	1,100,000
211111	Clarification, pressure filter, holding basin	57,600
Grass Seafood - Bon Secour	Screening	1,000
Mallon Seafood	Screening	500
- Dauphin Island	_	
Star Fish and Oyster - Mobile	Screening	288,000
Patronas Seafood	Screening	1,000
- Dauphin Island Causeway Seafood	Samoaning	1 000
- Causeway Searood	Screening	1,000
Union Carbide	Recycle, neutralization	
	settling, M3 recovery	918,000
American Cyanamid	Measurement and sampling,	
	piped to NMIWTP	60,000
	secondary waste treatment	
	measurement, sampling and release	
ALCO'A	Oil separation, filtration,	
ALWA	clarification, settling basin	
	water recycle from settling	0
Minainia Objetical	basin	
Virginia Chemical	Grit chamber, equalization nutrie addition, aeration, final	nt
	clarification, polishing pond	200 000
Eagle Chemical	sludge digestion Neutralization, holding	200,000
ragie Glemicai	pond	225,000
Courtaulds	Zn and H 2804 recovery,	
	screening, equilization,	8,800,000
	aeration, clarification,	
	sludge thickening and	
8-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1	digestion	
Reichhold	Oil separation, equalization, flotation, neutralization	190,000
	aerated lagoon	190,000
Degussa	Neutralization	371,000
Snell Chemical		
Pesticides	Oil separation, hydrolysis	
	neutralization, equalization, lagoon; incineration	
	Tabanit Inction actor	

Table II-2 Existing industrial wastewater treatment plants (continued)

Stauffer Chemical - Cold Creek	Deep well injection; neutralization, aeration basin 400,000	
Marion	Oil separation, flotation 45,300	
Louisiana Land &	Oil separation, aerated	
Exploration	stabilization basin 110,000	
Chevron Asphalt	Oil separation 350,000	
GAF	Discharges to WWTP	
Autlan Manganese	Thickener, settling ponds 354,000	
Kaiser Aluminum		
- Bay Minette	(No process discharge) 0	
Teledyne	Discharges to WWTP	
Alabama Dry Docks	(No process discharge) 0	
Frisco R.R.	Oil separation 325	
I.C.G. Railroad	Oil separation, local sand trap	
	(some flows go to WWTP) 11,500	
Miller Transporters	Closed	
Alabama Power	Stream segregation and individual	
- Chickasaw	treatment, settling pond, and pond	
- Barry	evaporation	
	Stream segregation and individual	
	treatment, ash pond 40,000,000	
Thompson-Hayward	4,100	

#### RAINFALL RUNOFF ONLY

Triangle Refineries - Choctaw Point - Blakely Island Hess Oil and Chemical Shell Oil Texaco American	Oil separation	
Gulf Oil AMSCO	Oil separation	
LaGloria Oil and Gas Murphy Oil		
M&T Chemical	Neutralization, primary clarification, biological treatment	200,000
* Secondary Treatment F Union Carbide (2) Kerr-McGee Deep Sea Foods, Inc.	Oil Separation Sedimentation	20,000 200,000 350,000
Carson & King Seafoods		160,000

N/A Not available

Source: South Alabama Regional Planning Commission, 1978. (Modified)

Table II-3 Veste dischargers in Mobile and Baldwin Counties

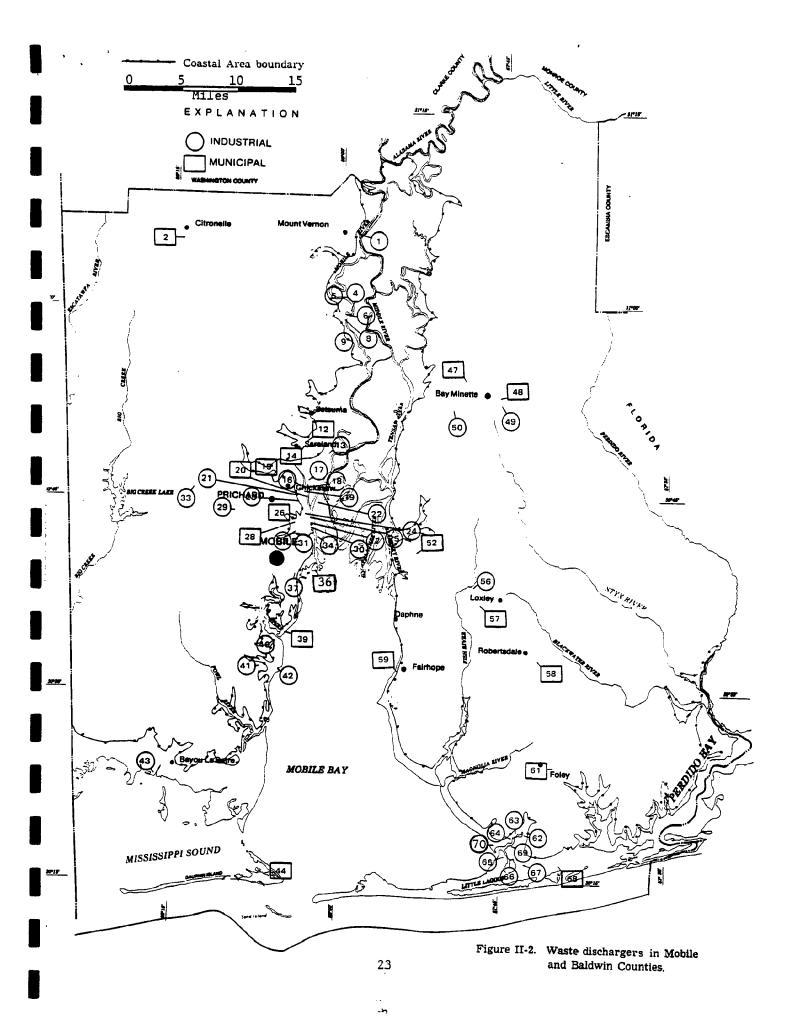
#### Municipal

#### 2. Citronelle Lagoon

- 12. Saraland Wastewater Treatment Plant
- 14. Chickasaw Lagoon
- 15. Eight-Mile Wastewater Treatment Plant
- 20. Hog Bayou Wastewater Treatment Plant
- 26. Grover Street Wastewater Treatment Plant
- 28. Three-Mile Creek Wastewater Treatment Plant
- 36. McDuffie Island Wastewater Treatment Plant
- 39. Bill Ziebach Wastewater Treatment Plant
- 43. Bayou La Batre Wastewater Treatment Plant
- 44. Dauphin Island Wastewater Treatment Plant
- 47. Westside Lagoon
- 48. Bay Minette Wastewater Treatment Plant
- 52. Spanish Fort Estates Lagoon
- 57. Loxley Lagoon
- 58. Robertsdale Wastewater Treatment Plant
- 59. Fairhope Wastewater Treatment Plant
- 61. Foley Lagoon
- 68. Gulf Shores Lagoon Treatment Plant

#### Industrial

- 1. Mt. Vernon Sawmill-Scott Paper Co.
- 4. Barry Steam Plant-Alabama Power
- 5. Virginia Chemicals, Inc.
- 6. Stauffer Chemical Co.
- 8. Courtalds Lagoon
- 9. Shell Chemical Co.
- 13. Jacintoport Lagoon
- 16. Diamond Shamrock Chemical Co.
- 17. Chickasaw Steam Plant-Alabama Power Co.
- 18. Eagle Chemical Co.
- 19. International Paper Co.
- 21. Union Carbide Corp.
- 22. Scott Paper Co.
- 23. Thompson-Hayward Chemical Co.
- 24. Crown Zellerbach
- 25. Alabama State Docks
- 27. Star Fish & Oyster Co.
- 29. Mobil Rosin Oil Co.
- 30. St. Louis-San Francisco RR Co.
- 31. Illinois Central-Gulf RR. Co.
- 32. Gulf Lumber Co.
- 33. Stone Container Corp.
- 34. Chevron Asphalt Co.
- 37. Teledyne
- 40. Marion Corp.
- 41. Autlan Manganese
- 42. Degussa Alabama, Inc.
- 49. Reichhold Chemicals, Inc.
- 50. Alpine Laboratories, Inc.
- 56. SARS, Inc.
- 62. Bon Secour Fisheries
- 63. Wallace Seafood
- 64. Aquilla Seafood
- 65. Grass Seafood
- 66 Plash's Seafood
- 67. Oyster Bay Seafood
- 69. Gulf Coast White Knight Seafood
- 70. Bon Secour Seafood



The use of septic tanks in many areas of coastal Alabama has resulted in water quality degradation. At Dauphin Island and Gulf Shores, Salmonella organisms, fecal coliform bacteria and high nutrient levels from septic tank systems have been isolated in waters used for swimming.

The 208 study determined that nonpoint source (NPS) pollution loadings can have a significant impact upon water quality. Because of their variable nature, the control of NPS is difficult. On the national and local levels, emphasis has been placed on the use of nonstructural control techniques such as street sweeping and improved erosion control practices at construction sites to address urban NPS. The Alabama Water Improvement Commission developed a 208 Agricultural Runoff Management Plan and a Silvaculture Runoff Management Plan which are now being implemented by the State Soil and Water Conservation Committee, and the Alabama Forestry Commission respectively.

There is no known deliberate dumping of toxic or dangerous materials into Alabama's coastal waters, but the various chemical industries handle a variety of noxious and potentially hazardous substances. They are a very real problem when accidentally introduced into the marine environment.

# G. Air Quality

Although coastal Alabama's land-sea breeze pattern readily diffuses pollutants, repeated violations of both primary and secondary ambient air quality standards for total suspended particulates have occurred in Mobile County. Poor air quality may cause human illness, damage wildlife and vegetation and contribute to water pollution.

Industrial and commercial stack emissions in Mobile County contributed 11,825 tons of particulates and 84,107 tons of sulfur oxides during 1982. Three air quality monitoring stations in Mobile County recorded total suspended particulates less than 75 micrograms per cubic meter, the primary ambient air quality standard. The most frequent violations occurred at the station at the Alabama State Docks. Among cities in the Southeast, only Birmingham has recorded higher levels.

Automobiles comprise the largest source of hydrocarbon particulate emissions, accounting for 10.2 tons per day. However, compared to most regions with a city as large as Mobile, these levels are relatively low.

For the most part, air quality is usually good in western Mobile County and in all of Baldwin County. But if certain weather conditions prevail, odor problems from the industrial sections of eastern Mobile County affect these areas as well.

Based on National Ambient Air Quality Standards, portions of eastern Mobile County have been identified as being Areas of Primary Nonattainment and Secondary Nonattainment for Particulates. The

entire county has been designated as a Primary Nonattainment Area for Photochemical Oxidants. Even though air pollution limits in portions of the two county area are now being exceeded, new industries and residents are continuously moving into coastal Alabama. Efforts are being made continuously to improve air quality.

## H. Solid Waste

The rapid expansion of industry and population which Mobile and Baldwin Counties presently enjoy is expected to increase in the years to come. Unprecedented needs for solid-waste disposal sites are expected to arise as volumes of solid waste are projected to increase 65 per cent by 1990. To preserve water, air, and visual quality and property value, solid-waste disposal should be accomplished in an environmentally acceptable manner.

Seventy known solid-waste disposal sites have been operating without authorization in the two-county area. These unauthorized sites, though seemingly of minor importance, have a significant cumulative impact on the coastal lands and waters. Disposal is usually not covered by soil, is in a flood-prone area or one with no stream runoff control, usually has no pest control, and is often accompanied by open burning (South Alabama Regional Planning Commission, 1977).

A number of sites within Mobile and Baldwin Counties are authorized and/or operating as municipal and county solid waste disposal sites -- Mobile County Citronelle-Mt. Vernon Landfill; City of Citronelle Disposal Site, City of Mobile Landfill (Chastang); City of Saraland Landfill, Mobile County Kusha Landfill, City of Chickasaw Dump; Mobile County Dawes Landfill; Mobile County Irvington Landfill; Baldwin County Bay Minette Landfill (Red Hills); Fairhope Landfill; Baldwin County Magnolia Landfill; Mobile Hickory Street Landfill; City of Prichard; and Mobile County Chunchula Landfill. Because water quality can be easily impaired, site selection and construction should be dependent on factors such as soil properties and their ability to assimilate wastes or prevent migration of toxic wastes into ground water, depth to water table, surface drainage, susceptibility to flooding, and concentration of other wastes being assimilated in the adjacent soil column. Open burning, malodors, and visual quality are a problem near open dumps.

#### I. Recreation

The coastal area of Alabama offers a wide variety of recreational opportunities to residents and tourists. Most recreational opportunities are centered around the area's water resources and, therefore, can be affected seriously by water pollution. Thousands are attracted to Alabama's beaches each year. As recreational opportunities increase, pressures also increase on the natural resources that originally attracted the activity. Too much foot traffic in natural areas (wetlands, dunes, bogs) can destroy the integrity of the area. Incompatible uses located next to a recreational area may make the area unfit for recreation.

Because more people are purchasing boats, there is an increasing demand for docks, harbors, and marinas. More than 29,236 boats were registered in Alabama's coastal waters during fiscal year 1982. There appear to be several areas with inadequate boat storage facilities and launching areas, particularly between Dog River and Dauphin Island. One study of recreational fishing in the Coastal Area found that sport fishermen spent \$5 million to catch 8 million pounds of fish in 1975 (Swingle, 1977).

Commercial recreational facilities are concentrated at Gulf Shores, on Dauphin Island, and along the margins of the Mobile-Tensaw River Delta (Figure II-3). In some cases, these facilities have harmed the coastal resources by improper waste disposal, construction methods that destroy the beach and dune systems, and overuse of the resources. However, since the approval of Alabama's Coastal Management Program in 1979, efforts have been undertaken to curb the abuse and destruction of these resources. These efforts included on site inspection of proposed development sites to assure compliance with the management program, dune setback requirments, patrol of and posting dune protection signs, monitoring water and sewer discharge points for water quality, a wetlands preservation program, and others.

Although difficult to project, the actual demand for specific types of recreational facilities in the Coastal Area will surely increase. For the Statewide Comprehensive Outdoor Recreation Plan (SCORP), Alabama was divided into several planning districts. The entire Coastal Area is contained within District 8 which includes three counties in the southwest corner of the State—Mobile, Baldwin, and Escambia. Although the projections presented in Table II—4 are applicable to the entire planning district, this information has been provided to give the reader a general understanding of the projected trend for outdoor recreational needs for the Coastal Area as well.

A total of 10,970.1 acres of shorefront publicly owned or maintained recreation areas are available for access in the two counties. Public access in Baldwin County is provided by 9,255.1 acres of state, county, and municipal parks, boat ramps, and other properties. About 1,715 acres of publicly owned or maintained land provide access in Mobile County.

Access to coastal recreational opportunities is further provided by numerous fish camps, privately operated boat ramps and marinas. These privately owned operations supplement the available public facilities and often provide access to areas were no public facilities are available. The Coastal Energy Impact Program has assisted in making extensive improvements in access to coastal recreation sites. Since the program began, 10 projects have been funded which improved public access.

Efforts have been made to increase access to South Mobile County, where there presently exists an unfulfilled demand for beach access, boat launching, dockage and storage. There have been efforts in the State Legislature to appropriate funds to purchase a large, uninhabited portion of western Dauphin Island, although these efforts

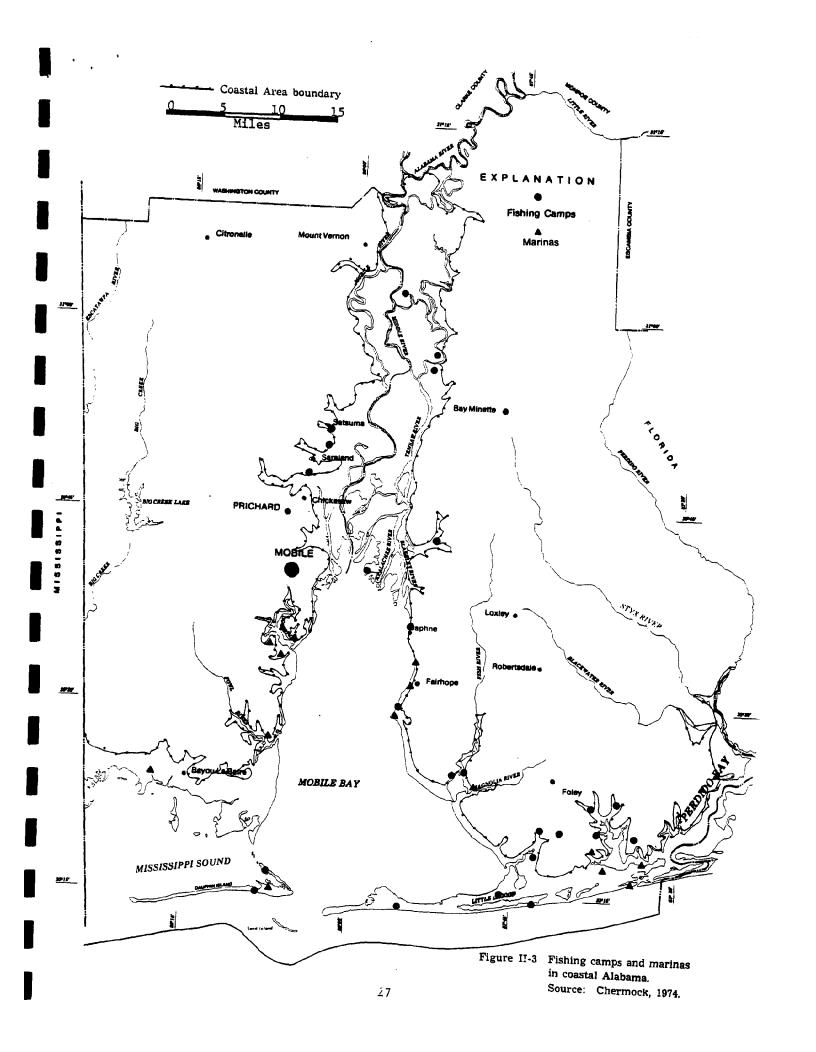


Table II-4 Outdoor recreational land and facility needs by kind, district 8, 1973-74, 1980, 2000

		Ne	eds by yea	rs
Activities	Units	1973-74	1980	2000
	<del></del>		Number	
Land, local governments	Acres	3,115	4,027	-
Land, State Parks	Acres	+1,473	+789	436
Land, other agencies	Acres	8,836	11,344	15,837
Playgrounds	. Acres	22	79	1,081
Archery	Positions	+31	+24	127
Tennis	Courts	70	125	332
Baseball (90' & 75' bases)	Diamonds	40	65	105
Softball	Diamonds	+106	+89	+24
Basketball Pasketball	Courts	49	123	295
Volleyball	Courts	22	40	73
Track & field	Fields	+9	+4	8
Picnicking	Tables	2,450	2,441	3,022
Roads for driving	Miles	134	158	221
Walking, pleasure	Miles	51	67	96
Pool swimming	Sq. Ft.	44,505	78,105	128,505
Pond or lake swimming	Acres	83	93	110
Vacation camping	Campsites	483	863	1,852
Group camping	Beds	510	788	1,121
Hunting land	Acres	+34,982	224,518	485,518
Fishing waters	Acres	+465,256	+425,952	+206,086
Bicycling (n/o trails)	Miles	494	559	661
Horseback riding trails	Miles	+18	+3	59
Natural and scenic	Sites	13	27	55
Golf, 18-hole	Courses		3	20
Golf, 9-hole	Courses		1	11
Firearm shooting	Ranges	+22	+20	+10
Transient camping	Sites	+505	+254	359
Boat launching	Ranges	53	84	239
Access parking	Spaces	5,532	7,082	14,832

Source: Auburn Agricultural Experiment Station, 1975.

have failed thus far. This area had been leased by Mobile County from a private concern for the past decade. However, the lease has now expired, and the owners wish to sell the land. If puchased by the State, approximately eight additional miles of shoreline would be available for public use. In addition, a number of boat ramps are planned for construction on the eastern end of Dauphin Island. These additional boat ramps will help to fulfill the demand for access to coastal waters.

Future efforts should be aimed at providing adequate recreational opportunities and beach access, while protecting the integrity of the coastal resources and rights of private property owners.

# J. Shoreline Erosion

Recent studies have shown that portions of Alabama's coastal shoreline are eroding. Of 503.9 miles of estuarine and Gulf shoreline, 220.9 miles are eroding. Natural erosion is caused by waves, currents and wind, and there is often little that can be done to offset its effects.

More than 90 per cent of Alabama's Gulf shoreline is eroding, and 33 per cent of the bay-estuary shoreline is eroding. The western half of Dauphin Island experiences the most erosion each year. A very large portion of this area is presently undeveloped, and there have been recent efforts to purchase this portion of the island for use as a public beach. Other affected areas are Perdido Pass, Little Point Clear, the shoreline of St. Andrews Bay, the southeastern limits of the Mobile-Tensaw River Delta, and the islands and northern shore of Mississippi Sound.

Projection and compatible uses of the shoreline continue to be a priority project in Alabama. Continued development of extensive condominiums, summer homes, resorts and highways along the shoreline will undoubtedly lead to further modification of the shoreline and increase the rate of erosion. Sand extraction from dunes contributes to the depletion of the dune system. Construction in wetland areas aggravates erosion by destroying their natural water-storage capacity and storm buffer functions. Efforts are continually being undertaken to minimize erosion and assure that coastal users are compatable with Alabama's coastal resources.

#### K. Hazard Management

As development in the Alabama Coastal Area continues, the potential loss from natural disasters from this area's two most significant natural hazards, hurricanes and flooding, grows correspondingly.

The destructive force of hurricane wind is generally accompanied by heavy rainfall, storm surge and wave attack. The combination of these forces can devastate a Coastal Area. Nineteen hurricanes have affected Alabama since 1900 with six of these inflicting serious damage to the Coastal Area. However, there has been only one major

landfall since 1960. This was Hurricane Frederic which devastated the Gulf Shores and Dauphin Island areas in 1979.

Flooding is a result of storm surges and heavy rainfalls associated with hurricanes and other tropical storms, convective thunderstorm activity, and frontal passages. Most of the Alabama Coastal Area is subject to flooding, with base elevation of the 100 year flood (the common name for a flood which has a one per cent chance of occurring annually) range from 7 feet above mean sea level at upper Perdido Bay to 13 feet above mean sea level at Mississippi Sound, with base elevation at Mobile Bay of 11 feet above mean sea level (Figure II-4).

The site selection process for new development in hurricane-prone areas should consider the potential for damage from storm surge, flooding, wave attack, and winds. Building design should incorporate methods to minimize the potential for damage by flood waters and include plans for flood-proofing and other means to reduce flood damage. Baldwin County recently enacted building codes to cope with hurricane force winds and storm conditions. This task was accomplished through the use of CZM 306 funds.

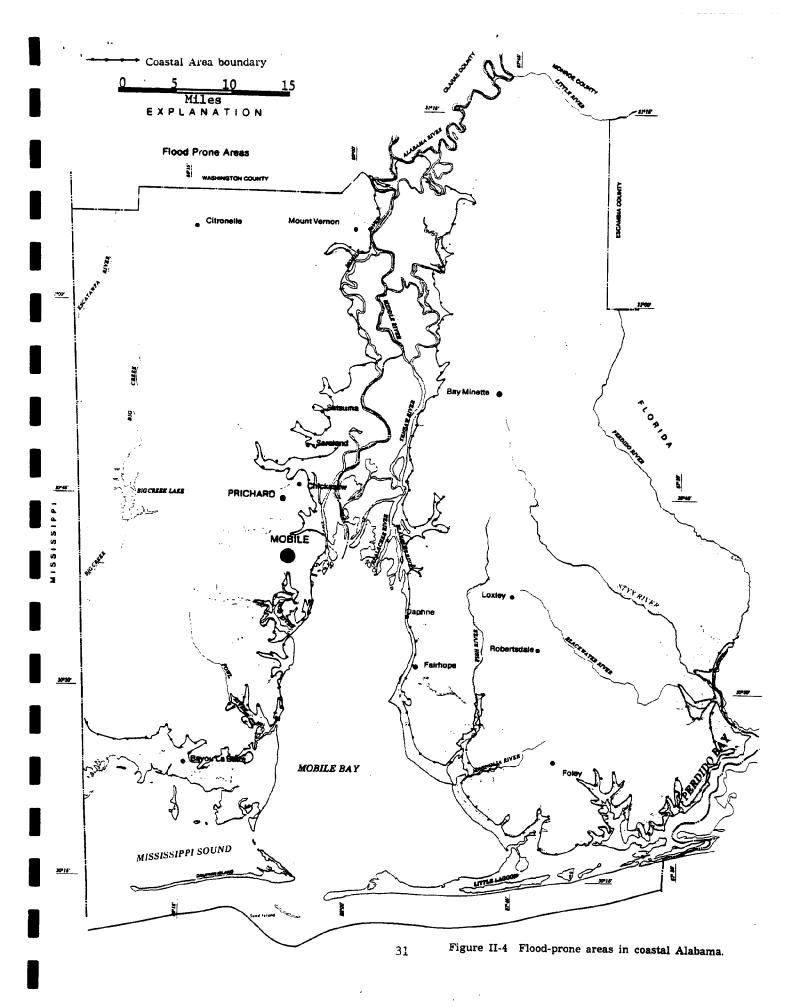
Public awareness of building design and location alternatives to mitigate damage from natural hazards needs to be strengthened. Preservation and restoration of natural protective barriers and natural walkways, the elimination of unnecessary alteration, and wise location and design could reduce the potential for property damage and loss of life in the Coastal Area.

#### L. Commercial Fishing

Alabama's fishing industry, one of the most important natural assets of the State, is the major economic factor in several Mobile and Baldwin County communities.

From 1950 to 1981, the dollar amount of Alabama's commercial marine fishery increased from \$2.1 million to \$44 million at the dock. The final economic value of the marine fishery was estimated at \$132 million in 1981. Poundage landed more than tripled over this same period. In addition, over 4,500 persons in coastal Alabama depend on the State's commercial fisheries for all or part of their personal income.

Shrimping is by far the major commercial fishery, accounting for almost 91 per cent of the retail value of all commercial fishing in the State. The abundance of shrimp is dependent upon many factors, but one of the most significant is the presence of extensive wetland areas for nursery grounds and food. It is estimated that 95 per cent of all commercial species in the Gulf of Mexico spend at least a portion of their life cycle in the estuaries. Any development that leads to the destruction of the wetlands is in direct conflict with the potential yield of the seafood harvest.



Physical alteration of the estuarine environment, as well as river discharge, can affect certain species of marine organisms. Dredge spoil disposal from channel construction and maintenance influences the circulation pattern of Mobile Bay. Circulation patterns, in turn, can alter the salinity patterns within the bay, which are particularly important to oyster growth.

The quality of coastal waters has a great impact on commercial fishing species. Bacterial pollution may cause several species, particularly oysters, to be unsafe for human consumption. Heavy metals and toxic chemicals discharged by industries may be concentrated in fish tissue. In the past, there have been bans on fishing in the Mobile Delta area due to high levels of mercury found in samples of fish tissue.

There are certain cultural aspects of commercial fishing which must be considered beyond the obvious dollar value and employment factors. Commercial fishing has traditional social and aesthetic qualities that cannot be ignored.

## SECTION II. NATURAL RESOURCE ISSUES

#### A. Beaches

Beaches are those shoreline areas characterized by low-relief, generally of gentle slope, sand and some vegetation. Gulf beaches are those sand beaches of the mainland and islands in Alabama which are subjected to the direct wave action of the Gulf of Mexico waters. Estuarine beaches are narrow, low energy beaches occurring along the protected margins of Mobile Bay, Perdido Bay, Mississippi Sound, and their various tributaries. The entire beach community covers approximately 14,000 acres in the two counties.

By their nature, beaches are a major attraction for tourism and recreation in all Coastal Areas. In Alabama, natural beaches are limited, and increased private acquisition of access routes has further reduced publicly available beach areas. Dauphin Island, for example, presently has only one-half mile of beach available for the estimated thousands of beachgoers visiting the island during the peak season. The closing of the island's west end to public use has made public access to beaches an issue in Mobile County. As population grows, the problem of beach access grows correspondingly unless additional beaches become accessible to the public.

The loss of beach reduces the amount of buffer protecting inland areas from the forces of storms. The dynamic status of beaches requires that development plans consider the erosion potential of a specific location. Development should not significantly alter the sediment supply process. Alterations could include interruptions in longshore currents, removal of sediments, isolating the beach from the dunes by bulkheading or other structures, and removal or destruction of stabilizing vegetation. Proper placement of permanent structures can reduce the problems resulting from beach erosion.

Beaches provide permanent habitat to several species, some endangered, including several terns, raccoons, and beach mice. Beaches are principal nesting sites for numerous birds, such as the least tern, osprey, and snowy plover, and some turtles. Intensive use by man eliminates beach areas from continued utilization by these wildlife species and hence reduces their survival potential. In view of these losses the state Coastal Management Agency adopted beach and dume setback (40 feet of the primary dume crestline) rules and regulations which should minimize the extent of loss.

#### B. Dunes

Dunes are ridges of unconsolidated and usually mobile sands lying landward of the upper limit of Gulf beaches and serve a protective function against the damaging forces of coastal storms and hurricanes.

The interaction between dunes and beaches deserves recognition and preservation. Coastal dunes are inhabited by many of the same species of wildlife which inhabit beaches and serve as a protective function against the damaging force of coastal storms and hurricances.

Typically, dume formation is a result of the accumulation of wind and water transported sediments carried across the beach. During periods of normal Gulf wind and wave conditions, sand is blown from the beach, accumulates, and is stabilized by vegetation in the form of dumes. Storms, however, will attack beaches and dumes cutting into both severely. It is in this role that dumes protect the coastal environment. Dumes provide a natural barrier to wave attack and also supply sediments to restore the beach. Dumes need to be preserved to maintain their protective function. Stabilizing dume vegetation requires protection from construction pressures and neavy traffic to prevent blowouts, migration, or destruction. Barriers to sand movement between beaches and dumes such as bulkheads should be excluded. Loss of dumes, regardless of cause, leaves a site and any structures upon it open to eventual destruction.

#### C. Wetlands and Submersed Grassbeds

Wetlands are those areas saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation, typically adapted for life in saturated soil conditions. Approximately 183,000 acres of wetlands exist in Alabama's Coastal Area today.

Historically, wetland areas have been regarded as land of low economic value. This attitude has fostered the destruction of undetermined acres of wetlands by draining, filling, and impounding. Many piecemeal dredge, fill and impoundment projects are occurring today in the Coastal Area. The total number of wetland acres in coastal Alabama is low, the value of each acre is high, and total acreage is being reduced annually, whether by a few large projects or a number of small operations.

This destruction of wetlands has many impacts. Total habitat for the many plant, animal, and fish species who live in the wetlands is reduced. Available nutrient supplies for many estuarine and coastal species is reduced, and since wetland species are important components of the food web, a breakdown in natural food web can be expected.

In addition to biological effects of wetland dredge, fill, and impoundment, these former wetland areas are usually unsuitable for development use. Surface subsidence, foundation settling, and susceptibility to flooding are problems affecting the developer and occupant.

Wetlands also serve a role in shoreline protection. The root mass holds sediments together, and the vegetation itself absorbs wave energy and traps sediment. Destruction of this erosion retarding surface exposes the nearby land surface to higher erosion potential.

Submersed grassbeds are those areas within the Coastal Area which support rooted vegetation that are not normally emergent even at low tide but remain covered within coastal waters. Baldwin (1957) estimated that approximately 5,000 acres of submersed plants existed in Mobile Bay at that time. Today, the extent of submersed grassbeds is not known. Evidence of submersed grassbeds in the northern portion of Mississippi Sound have been found. The extent of submersed grassbeds in Perdido Bay and Little Lagoon is not known.

It is believed that submersed grassbeds play a valuable role in the coastal ecosystem, especially to fisheries productivity; more work is necessary to determine this role and their extent. Planning efforts should recognize the value of submersed grassbeds and account for their presence.

Concern has been expressed about the abundance and rapid growth of certain aquatic weeds in Alabama's coastal waters. Portions of the Upper Mobile Bay and Lower Mobile-Tensaw Delta have been choked by heavy aquatic vegetative growth, identified as Eurasian Water Milfoil. Hydrilla, which has caused serious problems in many water bodies in the southeastern United States, has been found and treated by the Corps of Engineers in Coffeeville Reservoir on the Tombbigbee River northwest of Jackson. If this Hydrilla reaches the Coastal Area, serious problems can be expected. Further study of these problems will be necessary to determine the possible adverse impacts of these aquatic weeds on the Coastal Area.

#### D. Oyster Reefs

Natural public oyster reefs in Mobile Bay and Mississippi Sound cover about 3.064 acres. Varying in size, these reefs are concentrated mostly in the southern half of Mobile Bay. Approximately 1050 acres of riparian bottoms are being used to grow oysters by private individuals. Most of those remaining public oyster reefs have a density of harvestable oysters which is too low to allow economic recovery.

The commercial oyster fishery in 1981 contributed \$8.2 million dockside to the Alabama economy. At least 200 coastal residents depended upon the oyster fishery for a portion of their livelihood.

Optimum populations of cysters are difficult to maintain even under natural conditions. Because they are attached, cysters cannot move to new areas to escape harmful impacts. Therefore, they are affected by all conditions that alter their environment.

The salinity of the waters surrounding oyster reefs has a great effect on their mortality. If the salinity is too low, usually caused by excessive rainfall and flood waters, the result is high oyster mortality. Yet, if not enough fresh water is introduced into the estuaries and the salinity increases too much, there is an abundance of oyster drills. The oyster drill is by far the most serious oyster predator in the State's waters. At various times, live oyster reefs have been almost totally wiped out because of extreme variations in salinity.

Dredging in areas near natural oyster reefs can cause serious problems. Disposal of dredge spoils from channel construction or maintenance atop live oyster reefs can completely destroy the reef. Because of their location near natural oyster reefs, extreme care should be exercised when conducting maintenance dredging in the Mobile Ship Channel or the Intra-coastal Waterway.

The water quality of bays and estuaries can affect oysters. Coliform bacteria from improperly treated municipal and industrial discharges does not affect the growth and development of oysters. However, these bacteria are indicators that pathogns may be present. The pathogens are concentrated in oysters, creating a human health problem. Hepatitis and typhoid could result from eating contaminated, uncooked oysters.

Following a survey of wastewater dischargers, at least 72,000 acres of water bottoms in northern Mobile Bay were closed in the 1950's to harvesting due to coliform bacteria levels being higher than 70 per 100 milliliters. Due to the many recent improvements that have been made to municipal and industrial waste treatment facilities, it is possible that this area may no longer need to be closed to shellfish harvesting. The closure of these waters have declined considerably since the initiation of the 306 program. No waters were closed in 1981.

Periodically, oyster reefs in the southern portion of Mobile Bay near Dauphin Island have been closed temporarily to shellfish harvesting because of high coliform counts.

#### E. Wildlife

Due to the diversity of habitat available, the Coastal Area of Alabama supports one of the largest varieties of wildlife of any region of the State. Types of habitat available in the Coastal Area include beaches, salt marsh, brackish-freshwater marsh, swamps, mudflats, estuarine waters, open waters, and open ocean waters.

Studies of coastal fishes in Alabama indicate that about 293 species occur in coastal waters. Many of these species are valuable commercially while many other species are vital links in the food chain. Most species are dependent upon the coastal marshes, submerged grassbeds and estuarine waters for nursery areas before moving into deeper water at maturity.

Only a small number of species of mammals, mostly dolphins and whales, are associated with marine or brackish environments in Alabama. Terrestrial to semiaquatic species include rabbits, squirrels, raccoons, otters, minks, nutria, and muskrats.

There are about 132 avian species associated with Alabama's saline and brackish areas. Of the 33 species having breeding populations in the Coastal Area, a breeding habitat ranging from bare sand beaches to dead tree trunks is a crucial and limited resource without which populations of these species may decline to the point of extinction. Undisturbed resting and feeding space is necessary to support the remainder of the species as wintering or migrant populations.

Turtles, snakes and alligators are the predominant reptiles of the Coastal Area. Five species of sea turtles have been identified in Alabama waters. Although frequently reported in the past, turtle nesting on Alabama beaches is now a rare occurrence due to the greatly increased human activity in these areas.

Many species of invertebrates occur in the Alabama Coastal Area. Other than the species of commercial importance such as the shrimp and oyster, knowledge of the vast assemblage of invertebrate species associated with Alabama's coastal waters and wetlands is limited. At least 15 species of foraminifera have been identified. These animals play an important role in the food chain.

Only 15 species of copepods have been identified from Mississippi Sound and 6 from Mobile Bay and the adjacent Gulf of Mexico. Important as early consumers in the food chain, additional data on copepods and other microcrustaceans and their role is needed.

Probably the most common decapods are shrimp and blue crabs. However, many other species are vital because of their role as food sources for fishes, birds, and mammals.

At least 78 species of mollusks are common in the Alabama Coastal Area incuding oysters, squids, clams, and conchs.

Limited extent and uniqueness of some habitats, coupled with destructive activities, has resulted in a number of rare and endangered species of plants and animals occurring in this area. Many of these species are designated under the Federal Endangered Species Act of 1973. According to the Steering Committee on Endangered and Threatened Species in Alabama, an approximate inventory of species designated by the State of Alabama as Endangered, Threatened, or Species of Special Concern includes 30 species of plants, 9 fish, 21

species of reptiles and amphibians, 22 species of birds, and 9 species of mammals. Included are species which may not be permanent residents but are dependent in part upon coastal habitats. Table II-5 summarizes the current status of these species. Table II-6 includes a listing of endangered or threatened species which may be found in coastal Alabama that are under federal jurisdiction.

Perhaps, the most important issue concerning endangered species is their critical habitat requirement. Plants and animals are influenced to a great extent by the condition of their habitat. If their habitat is diminished or degraded, these animals may not be able to adapt, and they may become extinct. However, it must be recognized that certain actions which are not detrimental to critical habitat still may reduce the number or distribution of the species in question. Development pressure and the lack of site specific knowledge concerning the endangered species in the Coastal Area can threaten the delicate position of some of the endangered species.

The myriad communities of living organisms in estuarine and coastal systems are interrelated through a series of dependencies. The term "food web" best describes the complexity of systems where producers (plants) and lower organisms are usually fed upon by several animals.

If energy was passed along a single pathway from one trophic (energy) level to the next higher, cause and effect relationships and thus management of the living resources would be a simple matter. Primary production by wetland and submersed vegetation could be related directly to the production of commercial species. However, no animals of significant food or commercial value to man, except muskrats, nutrias, and some waterfowl, feed directly upon the vegetation within the system.

Plants occurring throughout the estuarine system comprise the base of the food web, converting energy from the sun into tissue available as an energy source to the other components of the food web. Plant productivity is available from marshes, swamps, submersed vegetation, algae, and phytoplankton in the water.

Only 10 percent or less of plant tissue produced is consumed by herbivorous animals, usually small insects, muskrats, nutrias, and ducks. The remainder is available through death, fragmentation, and decay as detritus. The creatures involved in the detritus-based food web are greater in numbers and vastly greater in biomass than those involved in direct consumption of the vegetation. Figure II-5 is a diagrammatic presentation of a generalized estuarine or coastal food web.

The structure of the food web varies greatly from season to season. In winter, most reproduction ceases and only a few aquatic invertebrates continue to breed. Many cold-blooded animals such as blue crabs cease feeding. Plant productivity is reduced during the colder months. However, warmer temperatures are accompanied by increased plant growth and animal activity, migration of birds and

Endangered and threatened species in coastal Alabama as designated by the State of Alabama Table II-5

Common Name	Scientific Name	Status	Habitat
Alabama shad	Alosa alabama	Undetermined	B,C,D, (R)
Blue sucker	Cycleptus elongatus	Threatened	D (R)
Pygmy killifish	Leptolucania ommata	Special Concern	E (R)
Least killifish	Heterandia formosa	Undetermined	E (R)
Bluespotted sunfish	Enneacanthus gloriosus	Undetermined	Q
Atlantic sturgeon	Actpenser oxyrhynchus	Threatened	ດຸກ
Shovelnose sturgeon	Scaphirhynchus platorynchus	Endangered	D,E
Crystal darter	Ammocrypta asprella	Threatened	D,E
Freckled darter	Percina lenticula	Threatened	D, E
Amphibians & Reptiles:			
Gulf saltmarsh water snake	Natrix fasciata clarkii	Undetermined	C,D
American alligator	Alligator mississippiensis	Threatened	C,D
Flatwoods salamander	Ambystoma cingulatum	Endangered	Q
Dusky gopher frog	Rana areolata sevosa	Threatened	D,E
River frog	Rana hecksheri	Special Concern	C,D
Florida softshell turtle	Trionyx ferox	Special Concern	я <b>'</b> О
Florida green water snake	Natrix cyclopion floridana	Special Concern	C,D
Pinewood snake	Rhadinaea lavilata	Special Concern	B, E
Copher tortoise	Gopherus polyphemus	Threatened	ম
Rainbow snake	Farancia erytrograma	Undetermined	С, D, Е
Black pine snake	Pituophis melanoleucus lodingi	Endangered	C,D, E
Alabama red-bellied turtle	Pseudemys alabamensis	Threatened	ä
Mississippi diamondback terrapin	Malaclemys terrapin pileata	Undetermined	в, с, р
Three-toes amphiuma	Amphiuma tridactylum	Undetermined	C, D, E
Eastern Indigo Snake	Drymarchon corais couperi	Endangered	띮
Atlantic loggerhead turtle	Caretta caretta caretta	Endangered	A(R), B(R)(B)
Green sea turtle	Chelonia mydas	Endangered	A, C(R)
Atlantic hawskbill turtle	Eretmochelys imbricata imbricata	Endangered	A(R)
Atlantic ridley	Lepidochelys kempi	Endangered	A, C(R)
Leatherback sea turtle	Dermochelys coriacea	Threatened	A(R)
Greater siren	Siren lacertina	Special Concern	д,

(continued)
1I-5
Table

Coumon Name	Scientific Name	Status	Habitat
Birds:			
Brown pelican	Pelecanus occidentalis	Endangered	A(C), E(C), C(U) =
Great white heron	Ardea occidentalis	Undetermined	E(R), C(R) *
Reddish egret	Dichromanassa refescens	Threatened	A(M), B(C)*
Mottled duck	Anas fulvigula	Threatened	B(R, B), C(R), D(R) *
Swallow-tailed kite	Elanoides forficatus	Special Concern	B(R),C(R),D(R)*
Sharp-shinned hawk	Accipiter striatus velox	Special Concern	B(U),C(R),D(R),E(R)
Cooper's hawk	Accipiter cooperii	Special Concern	B(R), C(R), D(R), E(F) *
Golden eagle	Aquila chrysaetus canadensis	Endangered	E(R)*
Bald eagle	Hallaeetus leucocephalus	Endangered	A(M), B(R), C(R), D(R)*
Osprey	Pandion halfaeetus	Endangered	A(M), B(B, U), C(B, U) "
			D(C,B),E(C)*
American peregrine falcon	Falco peregrinus anatum	Endangered	A(N), E(R)*
Sandhill crane	Grus Canadensis	Special Concern	B(R) *
American oyster catcher	Haematopus palliatus	Special Concern	B(R, P, B), C(R, P, B) **
Snowy plover	Charadrius alexandrinus	Endangered	A(!!), B(R, P, B)*
	tenufrostris		
Red-cockaded woodpecker	Dendrocopos borealis	Endangered	B(R, P, B), E(R, F, E) *
	tenuirostris		
Gray kingbird	Tyrannus dominicensis	Undeterrined	B(U,B),C(U)*
Bewick's wren	Tyromanes bewickii	Special Concern	B(R),D(R),E(R)*
Little blue heron	Florida caerulea	Special Concern	C,D, *
Black Growned nite heron	Nycticorax nycticorax	Special Concern	B,C(B) *
Kood stork	Mycteria americana		D, E(M) *
Merlin	Falco columbarius		B(N) *
Black Rail	Laterallus jamaicensis	Special Concern	C(N) *
	Falco peregrinus tundris		
Mammals:			
Southeastern myotis	Myotis a. austroriparius	Special Concern	D,E *
Florida yellow bat	Lasturus floridanus	Special Concern	D,E *
Marsh rabbit	Sylvilagus p. palustries	Special Concern	C,D *
White-fronted beach mouse	Peromyscus pollonotus anmobates	Endangered	B,E *
(endemic)			
Perdido Bay beach mouse	Peromyscus polionotus trissyllepsis	Endangered	* a.a

Table II-5 (continued)

Common Name

Mammals: Continued
Hoary bat
Florida black bear
Bayou gray squirrel
Florida Panther

Plants:

Scientific Name		Statue	Habitat	
Lasturus c. cinearous Ursus americana floridanus Sciurus carolinesis fuliginosus Felis concolor coryi	s Inosus	Undetermined Endangered Special Concern Endangered	C,D,E * C,D,E * C,D,E * D(R)(B) *	
Rhynchospora crinipes Lilium iridollae		Endangered Endangered	Q	
Epidendrum conopseum		Endangered	a	
Ilex amelanchier		Endangered	দৈ	
Psoralea simplex		Endangered	Д	
Oenothera grandiflora		Endangered	<b>a</b> 4	
canna maccida Cleistes divaricata		Inregrened	<b>3 F4</b>	
Xyris drummondii		Threatened	Œ	
Coreopsis gladiata		Threatened	(St.)	
Hypericum nitidum		Threatened	ĵ <b>z</b> ą	
Ludwigia arcuata		Threatened	Q	
Sageretia minutifolia		Threatened	Д	
Sarracenia psittacina		Threatened	ſΞų	
Cordonia lasianthus		Threatened	Д	
Momisia iguanea		Threatened	æ	
Lycopodium cernuum		Special Concern	<u>F</u> z4	
Chamaecyparis thyoides		Special Concern	A	
Chamaecyparis thyoides var. henryae	: henryae	Special Concern	A	
Erfoculon lineare		Special Concern	Q	
Erfocaulon texense		Special Concern	ᄕ	
Habenaria integra		Special Concern	Q	
Clethra alnifolia var. alnifolia	ifolfa	Special Concern	Q	

Table II-5 (continued)

Habitat		ن بن <i>ا</i>	Q	Ē4	Ĺžq	ſ <b>z</b> .,	<ul><li>(M) - Migrant</li><li>(P) - Permanent Resident</li><li>(B) - Breeds in habitat</li></ul>
Status		Special Concern Special Concern	Special Concern	Special Concern	Special Concern	Special Concern	(C)-Common (U)- Uncommon (R) - Rare
Scientific Name		Kalmia hirsuta Fustoma exaltatum	Sabaria foliosa	Hypericum reductum	Pinguicula plainfolia	Agalinus pseudophylla	D- Delta, River Swampland E- Upland F- Acid bags
Common Name	Plants - Continued						A-Marine B-Barrier Island, Beach & Dunes C-Estuarine & Marshland

Source: Keeler, 1972; Boschung, 1976.

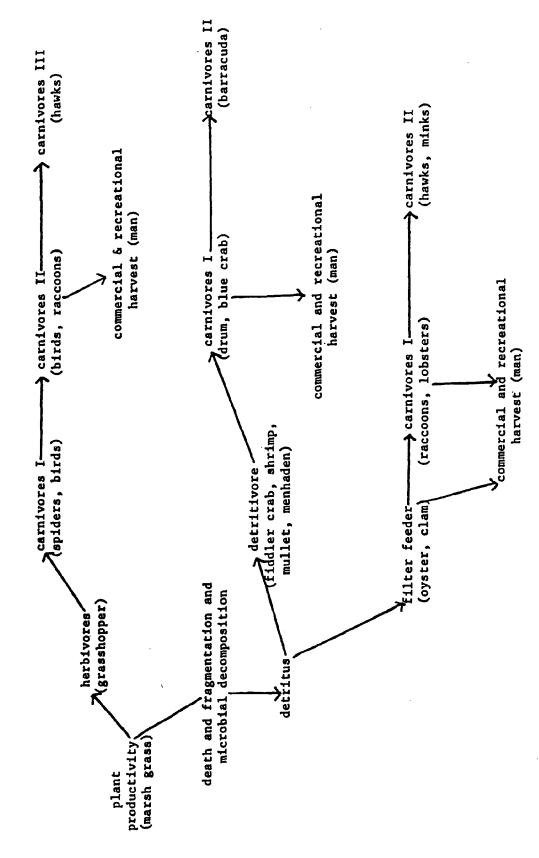


Figure II-5 Generalized estuarine food web (with some typical examples at each trophic level)

Table II-6 Endangered species in coastal Alabama as designated by the U.S. Department of the Interior or U.S. Department of Commerce

Common Name Figh:	Scientific Name	Status
Bluestripe shiner	Notropis callitaenia	Reviewing to determine status
Crystal darter	Ammocrypta asprella	Reviewing to determine status
Amphibians & Reptiles:		
Hawksbill turtle	Eretmochelys imbricata	Endangered
Leatherback turtle	Dermochelys coriacea	Endangered
American alligator	Alligator mississippiensis	Endangered
Brown pelican	Pelecanus occidentalis	Endangered
Red hills salamander	Phaeognathus hubrichti	Threatened
Green sea turtle	Chelonia mydas	Proposed as
		endangered
Loggerhead sea turtle	Caretta caretta	Proposed as
		endange red
Birds:		
Southern bald eagle	Haliaeetus leucocephalus leucocephalus	Endangered
American peregrine falcon	Falco peregrinus anatum	Endangered
Artic peregrine falcon	Falco peregrinus tundrius	Endangered
Eskimo curlew	Numenius borealis	Endangered
Ivory-billed woodpecker	Campephilus principalis	Endange red
Red-cockaded woodpecker	Dendrocopos borealis	Endangered
Bachman's warbler	Vermivora bachmanii	Endangered
Mammals:		
Florida panther	Felis concdorcoryi	Endangered
West India (Florida) manatee	Trichechus manatus	Endangered
Blue whale	Balaenoptera musculus	Endangered
Finbach whale	Balaenoptera physalus	Endangered
Sei whale	Balaenoptera borealis	Endangered
Humpback whale	Megaptera novaeangliae	Endangered
Right whale	Eubalaena ssp. (all species)	Endangered
Sperm whale	Physeter catodon	Endangered

# Plants:

Presently, approximately 31 species of plants are listed as endangered and 47 additional plants are being reviewed for status determination.

aquatic species into the Coastal Areas, and increased food demands of, and subsequent predation on, larval and juvenile forms.

It is apparent that events which may disturb the energy flow at any point in the web may have far-reaching effects, not just at the specific level disturbed, but multiplying throughout the web. One must consider the entire biological spectrum in management planning and not only those species noteworthy because of their commercial, recreational or nuisance values.

# F. Water Resources

The continued economic growth of the Alabama Coastal Area is dependent to a great extent on the availability of adequate supplies of fresh water for private, public and industrial consumers. Population in the Coastal Area is growing and is augmented by increasing numbers of tourists and retired persons. Fortunately, large quantities of surface and ground waters are presently available to meet those needs.

#### 1. Ground and Surface Water Supplies

Surface water in the Mobile and Baldwin Counties area flows from three major drainage basins: Mobile River basin, Escatawpa River basin, and Perdido River basin. The surface water resources of the Coastal Area include streams, natural lakes, ponds, and reservoirs. On the average, over 43 billion gallons of surface water pass through the Coastal Area each day.

The principal sources of ground water in Mobile and Baldwin Counties are the miocene-Pliocene and alluvial acquifers. An estimated 61,000 billion gallons of fresh water are stored in the Miocene- Pliocene aquifer. However, because of salt water intrusion, the volume of ground water stores above sea level represents the maximum exploitable supply, amounting to about 16,026 billion gallons. Coastal Alabama's alluvial aquifers store an additional 37 billion gallons.

The total sum of all exploitable surface and ground water is generally sufficient to meet the needs of coastal Alabama today. This supply, however, should be protected from activities which could pollute surface and ground waters.

## 2. Salt Water Intrusion

Salt water intrusion was experienced in Mobile during World War II as a result of excessive ground water withdrawals. Indications of salt water intrusion are presently seen in some wells on Dauphin Island and Gulf Shores, and in wells tapping the Miocene-Pliocene aquifer near the Mobile River upstream from Mobile (U.S. Army Corps of Engineers, 1955). Since further pumping of ground water for domestic and irrigation use is expected in the coastal zone, salt water intrusion could become a problem in some portions of the Alabama Coastal Area if overpumping occurs. To date, salt water intrusion is not a major problem but the potential is very great.

#### 3. Deep Well Disposal

The disposal of liquid wastes in deep wells is regulated by the Alabama Department of Environmental Management's Underground Injection Control regulations, which apply to all non-oil and gas industry injection wells, and the State Oil and Gas Board, which regulates the disposal of brines produced as a result of oil and gas production.

Injection wells are divided into five classes or types of wells:

Class I - wells injecting wastes below the lowest underground source of drinking water.

Class II - wells injecting brines associated with the oil and gas industry.

Class III - wells used to solutionally mine soluble minerals.

Class IV - wells injecting hazardous materials into or above undergound sources of drinking water.

Class V - all other injection wells, e.g. air conditioning return flow wells.

Currently new Class I and IV wells are prohibited in Alabama.

#### G. Cultural Resources

The Alabama Coastal Area is rich in a variety of cultural resources, that is, those building, sites, objects, or other material significant in history, architecture, science, archaeology, or culture that may be of national, state, or local significance. It is estimated that at least 2,000 significant archaeological sites can be found in the Alabama Coastal Area, and many have been destroyed or allowed to deteriorate. At least 156 additional significant historic landmarks or sites have been identified in Mobile and Baldwin Counties. Seventeen sites located within the Coastal Area are included in the National Register of Historic Places. Fort Morgan and Mobile City Hall-City Market have been certified by the Secretary of the Interior to be of national importance and designated as National Historic Landmarks.

Mobile and Baldwin Counties' rich and varied past has certainly led to this myriad of cultural resources. These sites, which can easily fall to development pressures, are a valuable, non-renewable, and delicate resource.

#### CHAPTER THREE

POLICIES, OPERATIONAL RULES AND REGULATIONS, AND ACTION ITEMS OF THE ALABAMA DEPARTMENT OF ECONOMIC AND COMMUNITY AFFAIRS AND THE ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Coastal Alabama is an area of opportunity and high growth potential. Its plentiful natural and man-made resources offer an attraction for a variety of economic, social, recreational, and natural uses. The attractiveness of the Mobile SMSA as an industrial, tourist, and recreational area has brought with it competition for the finite coastal resources which are located in the area.

The coastal area with some 400,000 acres of bays and estuarine waters, 183,000 acres of wetlands, 130 identified species of birds, a commercial fishing catch with a final value estimated at \$148 million, and a registration of over 23,300 recreational boats also has major industrial and municipal sources discharging over 170 million gallons per day of various waste products into coastal waters, a booming second-home construction business throughout the area's waterfront, a maintenance dredging requirement producing 7 million cubic yards of spoil material annually, the prospects of increased energy development (gas and oil), and the possibilities of additional growth related to the Tennessee-Tombigbee Waterway. As competition for resources becomes more intense, special efforts must be developed to resolve potential conflicts in order to allow an opportunity for fishermen to harvest the rich coastal fishery yields while industries use the water resources for process water, transportation and some waste assimilation and providing employment opportunities for local residents. A balance must be achieved which sustains economic development on the one hand and which protects natural resources on the other.

The coastal resource use and natural resource protection policies listed below are presented to form the basis for the decision-making process in the Coastal Area Management Program. Future activity in the Coastal Area will be evaluated for consistency with these policies. Certainly the, ADECA's Office of State Planning and Federal Programs ADECA and the Alabama Department of Environmental Management (ADEM) encourage the enhancement of coastal resources, but feels that the best approach to coastal issues is to take the major step of maintaining present levels of coastal resources. Once this is accomplished, the ADECA and ADEM can focus more attention on enhancing the Coastal Area.

After careful review of all coastal issues and development of its basic policies, the operational rules and regulations in Chapter Four, were adopted to implement the program and to undertake certain action items to address specific coastal issues that are inherent in the Coastal Area. The action items listed below are examples of activities that the ADECA and ADEM propose to consider during implementation of the Coastal Area Management Program. These and other action items will be undertaken within the technical and

financial resources of the ADECA and the Alabama Department of Environmental Management.

SECTION I. COASTAL RESOURCE USE POLICIES, OPERATIONAL RULES AND REGULATIONS AND ACTION ITEMS

#### A. Coastal Resource Use Policies

# 1. Coastal Development

The Alabama Coastal Area Management Program (ACAMP) encourages and supports, to the maximum extent practicable, the continued development of the economic resources of the Coastal Area, including the port, industrial, energy and recreational resources, so that they may continue their full contribution to the economic well-being of all citizens. Development within coastal Alabama will be carried out in a manner which is consistent with the programs policies for natural resources.

# 2. Mineral Resource Exploration and Extraction

It is the policy of the Management Program to encourage the extraction of mineral resources in coastal Alabama consistent with the water quality policies and natural resource policies of the ACAMP.

#### 3. Commercial Fishing

To encourage and promote the commercial fishing industry in coastal Alabama, it is the policy of the ACAMP to maintain conditions that support present populations, and where feasible, to enhance marine species and to encourage conservation practices favoring increases of marine and estuarine species which will increase the potential yield of Alabama's coastal fisheries.

#### 4. Hazard Management

Human activities within hazard management areas including flood and hurricane prone areas will be carried out in a manner which sustains the area's natural capability of absorbing the effects of flood and hurricane events, and development within these areas shall be designed, located, and constructed in a way that minimizes the possibility of property damage and human suffering resulting from hazard events.

#### 5. Shoreline Erosion

It is ACAMP policy that the existing natural or man-made character of coastal shorelines shall be maintained in a manner to prevent the erosion of the Alabama coastline with primary emphasis on non-structural forms of erosion control, and where feasible, enhancement of the natural protective functions of the shoreline shall be encouraged.

# 6. Recreation

Public access to and use of existing recreational lands and waters, such as beaches, marinas, and fishing grounds, will be safeguarded, and the ADECA and ADEM encourage the development of additional recreational opportunities to enhance the well-being of Alabama citizens as well as residents of other states.

# 7. Transportation

Recognizing the need for safe, convenient, rapid and economic access to, through and from Alabama's coastal lands and waters, the ADECA and ADEM encourage and support the orderly growth of the area's transportation network provided this growth is consistent with the policies regarding natural resources.

# B. Coastal Resource Use Operational Rules and Regulations

Specific rules and regulations have been drafted for the ADECA and ADEM to implement the coastal resources use policies above. The following coastal resource rules and regulations may be found in Section V of Chapter Four:

- regulations for the siting, construction and operation of energy facilities;
- 2. regulations for dredge and filling;
- 3. regulations for shoreline erosion
- regulations for public access;
- 5. regulations for natural hazards; and
- 6. regulations for solid waste disposal.

#### C. Coastal Resource Use Action Items

# 1. Economic Development

- a. The ADECA and ADEM will, within their resources, provide technical and financial assistance to port development agencies to plan harbor facilities to meet future demand, to determine appropriate areas for disposal of dredged materials, and to promote the development of port facilities.
- b. The ADECA and ADEM, within their means, will provide technical assistance and funding for special studies to meet Alabama's energy needs through the development of the energy resources of the Coastal Area consistent with the management program; by assisting appropriate agencies to devise an environmentally acceptable statewide energy plan; and by assessing site suitability as well as anticipating and managing impacts for planned energy facilities.

- c. The ADECA and ADEM (ACAMAS) will coordinate with the Coastal Energy Impact Program and others to provide financial assistance so that local communities may accommodate energy-related development in a planned and environmentally responsible manner.
- d. The ADEM will work with all other involved agencies to make every attempt to coordinate and simplify the permitting process in the Coastal Area.
- e. The ADEM has establishment of a central location for obtaining information about permitting within the Coastal
- f. The ACAMAs will coordinate with other involved agencies to assist in determining the environmental and social impacts that may result from the development of the Tennessee-Tombigbee Waterway.
- g. The ACAMAs will coordinate closely with other involved agencies in developing a coastal fisheries management program for coastal Alabama.

# 2. Shoreline Erosion

The ADECA and ADEM will provide technical and financial assistance for special studies to assess the suitability of certain types of erosion control measures in specific areas; to educate the public regarding erosion-related matters; and to investigate methods to acquire specific areas within the Coastal Area that are subject to significant erosion.

#### 3. Public Access

To meet anticipated demands for public access to valuable waterfront recreational areas the ADECA and ADEM will identify methods and sources of funds to acquire and develop additional areas for public access; use appropriate programs and funds to acquire additional areas for public access; and investigate techniques for acquiring additional areas for public access.

## 4. Hazard Management

Where possible, the ADECA and ADEM will provide technical assistance related to protection from floods, erosion and hurricanes and investigate the feasibility of acquiring title to lands within the Coastal Area that are prone to severe hurricane or flood damage.

SECTION II. NATURAL RESOURCE PROTECTION POLICIES, OPERATIONAL RULES AND REGULATIONS AND ACTION ITEMS

# A. Natural Resource Protection Policies

# 1. Biological Productivity

It is the policy of the ACAMP to maintain present levels of plants and animals within coastal Alabama; to enhance, where feasible, biological productivity; and to monitor directly these levels through regular sampling.

### 2. Water Quality

It is the general policy of the ADEM to maintain the coastal waters of the State at a quality which will support present levels of estuarine organisms, plants and animals and, where feasible, to enhance and restore water quality to support optimum levels of estuarine organisms, plants and animals.

## 3. Water Resources

Recognizing that the water resources of the Coastal Area are held in trust by the State of Alabama for the population of the State, it is the policy of the ADECA and ADEM that these resources shall be managed to insure that sufficient quantities of clean water are available to meet present and future demands.

## 4. Air Quality

It is the policy of the ADEM to maintain air quality in coastal Alabama at a level which supports the health and well-being of Alabama's citizens and, where feasible, to enhance air quality.

#### 5. Wetlands and Submersed Grassbeds

The quality and quantity of coastal wetlands and submersed grassbeds shall be maintained at the level necessary to provide for present levels of habitat for both terrestrial and aquatic life to play their pivotal role in the aquatic food web and to provide natural control for shoreline erosion and, where practicable, to enhance the quality and quantity of these wetlands and submersed grassbeds.

#### 6. Beach and Dune Protection

Recognizing the natural value of beaches and dunes for erosion control, wildlife habitat, and recreational opportunities, it is the policy of the ADECA and ADEM to maintain the natural integrity of the beach and dune systems and to restore and enhance these valuable resources where feasible.

## 7. Wildlife Habitat Protection

It is the policy of the ADECA and ADEM to maintain areas of wildlife habitat sufficient to support present levels of terrestrial and aquatic life, including fish and shellfish, and to preserve endangered species of plants and animals and, where feasible, to provide for optimum levels of terrestrial and aquatic life.

#### 8. Endangered Species

It is the policy of the ADECA and ADEM to promote and encourage the preservation of the critical habitat of recognized endangered species.

#### 9. Cultural Resource Protection

Because of the wealth of unique and representative archaeological and historic sites in coastal Alabama and their educational and cultural values, it is the policy of the ADECA and ADEM to support preservation and protection of Alabama's cultural resources.

#### B. Natural Resource Protection Operational Rules and Regulations

Specific rules and regulations have been drafted for the ACAMP to implement the natural resource protection policies above. The following natural resource rules and regulations may be found in Section V of Chapter Four:

- 1. regulations for water quality
- 2. regulations for wetlands and submersed grassbeds;
- 3. regulations for air quality;
- 4. regulations for beaches and dunes;
- 5. regulations for water resources;
- 6. regulations for protection of cultural resources;
- 7. regulations for fisheries management and;
- 8. regulations for wildlife and wildlife habitat.

## C. Natural Resource Protection Action Items

#### 1. Water Quality

- (a) The ADEM supports the ongoing efforts of the Environmental Protection Agency to monitor and control water quality problems throughout the Coastal Area especially in areas of conflicting uses.
- (b) To develop the management information necessary to assess reasonably the impacts of coastal development on coastal waters, special studies were conducted by the ACAMAs to establish a biological baseline of the Coastal Area including bottom characterization, determining present levels of animal species, and comprehensive inventories of wetlands and submersed grassbeds, as well as the chemical characterization of water quality.

#### 2. Wetlands and Submersed Grassbeds

- (a) Because of their important natural functions, the ADECA and ADEM will provide financial and technical assistance within its means to study the vulnerability of and stresses placed upon these valuable areas. Based upon this information, the ADEM can institute reasonable safeguards for the preservation of these natural resources.
- (b) As part of the biological baseline analysis of the Alabama Coastal Area, the ADECA and ADEM will conduct special studies to determine the quality, quantity, and location of all wetlands and submersed grassbeds.

## 3. Beaches and Dunes

Because of their important role in erosion control and as a habitat for certain plant and animal species, the ADECA and ADEM will conduct special studies to determine the extent and location of the beaches and their associated dune systems within the Coastal Area.

#### 4. Cultural Resources

The ADECA and ADEM will explore funding sources and assist in obtaining funds to acquire appropriate open space areas and investigate funding sources to identify, restore, preserve, and enhance valuable historic areas.

#### CHAPTER FOUR

# ELEMENTS OF THE COASTAL AREA MANAGEMENT PROGRAM

#### SECTION I. BOUNDARY

In the Regular 1976 Session, the Alabama Legislature passed Act 534 (codified as \$9-7-10--22 of the Code) establishing the boundary of the Coastal Area subject to the Coastal Area Management Program in Alabama. During the 1982 legislative session the Alabama legislature passed Act 82-612 which amended \$9-7-10 through 22 of the Code of Alabama but reaffirmed its' protective provisions (protecting and enhancing our coastal area). Act 82-612 was codified as \$22-22A-1 through 13.

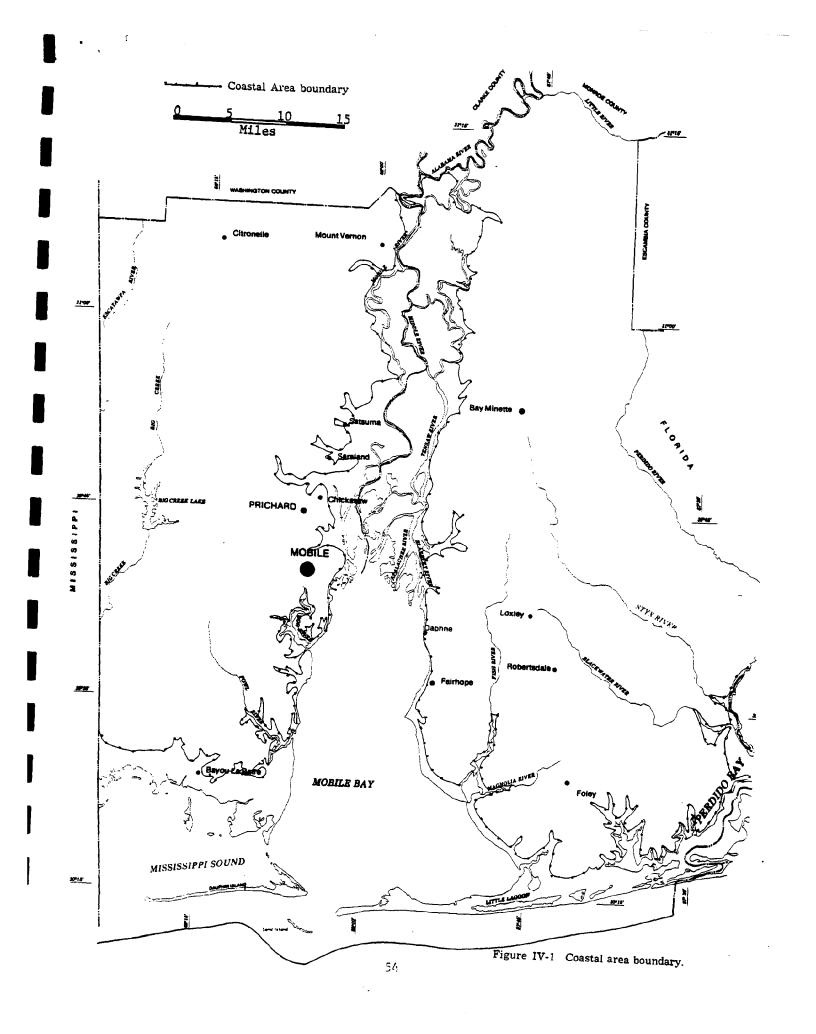
Title 9, Chapter 7 Section 10, reaffirmed in Section 22-22A-10 of of the Code of Alabama, defines coastal area as the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder) strongly influenced by each and in proximity to the shorelines of Alabama, and includes transitional and intertidal areas, salt marshes, wetlands and beaches. The area extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters.

Title 9 Chapter 7 of the Code as amended by Act 82-612 fixes the inland boundary of the Coastal Area more specifically as the continuous 10-foot contour where the land surface elevation reaches 10 feet above mean sea level (Figure IV-1). The Coastal Area encompasses all land seaward of the 10-foot contour including the coastal islands.

Within this boundary, the State has developed a Coastal Area Management Program setting forth objectives, policies and standards to guide public and private users of land and water. Although the management program will not directly regulate activities outside the Coastal Area, the authority of the Alabama Coastal Area Management Program within the Coastal Area is such that it may preclude from the Coastal Area those uses and effects of uses which have a direct and significant impact within the Coastal Area and which are inconsistent with the management program.

# Inland Boundary

Following several public hearings in the Coastal Area at which various alternative inland boundaries of the Coastal Area were considered, ranging from mean sea level to the inland boundaries of Mobile and Baldwin Counties, the Alabama legislature adopted an inland boundary which permits the Alabama Coastal Area Management Agencies (ADECA and ADEM) to manage those uses that may have a direct and significant impact upon coastal waters and which includes all Geographic Areas of Particular Concern (GAPC's). The specific limits of the inland boundary are as follows:



"The inland boundaries of the Coastal Area subject to the management program are described as follows: begin at the southernmost point on the Mississippi-Alabama State line where the land surface elevation reaches 10 feet above mean sea level and continue in a general easterly direction along the 10-foot contour to the proximity of Mobile Bay; continue in a northerly direction on the 10-foot contour along the western shore of Mobile Bay and the Mobile River delta to the north line of Mobile County; thence southeastward along the north line of Mobile County to the intersection with the Baldwin County lines in the Mobile River; thence along the west and north lines of Baldwin County in the Mobile and Alabama Rivers to the intersection of the southwest corner of Monroe County; thence eastward along the Baldwin County line to the intersection of the westernmost point of Baldwin County where the land surface altitude reaches 10 feet above mean sea level; thence along the 10-foot contour in a southwesterly and southern direction along the Alabama River, the Mobile River delta and the east shore of Mobile Bay to the proximity of Bon Secour; thence continue along the 10-foot contour in an easterly and northeasterly direction to the Alabama-Florida State line".

#### Lateral Boundaries

The eastern boundary of the Coastal Area is the Alabama-Florida state line. This lateral boundary continues due south to the outer limit of the United States territorial sea.

The western boundary of the Coastal Area is the Alabama-Mississippi state line. This lateral boundary extends due south from the point where the Mississippi-Alabama state line passes the barrier islands to the outer limit of the United States territorial sea.

#### Seaward Boundary

The seaward boundary, which is the outer limit of the territorial sea, runs parallel to the Alabama coast three miles southward from the land-sea interface of Mobile and Baldwin Counties.

# Interstate Boundary

The Mississippi Coastal Management Program was approved in September, 1980 and is being implemented. The Mississippi coastal boundary includes all three coastal counties, Hancock, Harrison, and Jackson.

Florida's Coastal Management Program was approved in September 1981. The entire state and its territorial waters are included in its coastal boundary.

# Excluded Federal Lands

In accordance with section 304(a) of the Coastal Zone Management Act of 1972, federal lands (all lands and types of land owned, leased, held in trust or otherwise solely used by federal agencies) within Alabama's Coastal Area are excluded from the Coastal Area boundary (Table IV-1). However, any activities or projects which are conducted within these excluded lands that have a significant impact on the lands or waters of Alabama's Coastal Area, are subject to the consistency provisions of Alabama's Coastal Area Management Program.

TABLE IV-1. Identified federally-owned lands within Alabama's coastal area

General Services Administration	.8	acres
Old Federal Building		
General Services Administration	.8	acres
New Federal Building		
Theodore Army Terminal	43.3	acres
(partially in coastal area)		
Department of Transportation		
Coast Guard-Dauphin Island Station	3.8	acres
Department of Transportation		
Coast Guard-Dauphin Island Housing	16.0	acres
Department of Health, Education, and Welfare		
Food and Drug Administration-Dauphin Island	4.0	acres
Department of Transportation		
Coast Guard-Sand Island Lighthouse	.2	acres
Department of Transportation		
Mobile Industrial Base	51.1	acres
Department of Transportation		
Mobile Point Rear Range Light	23.9	acres
Corps of Engineers		
Intracoastal Waterway - Mobile-Pensacola	22.4	acres
Department of the Interior		
Bureau of Land Management		
Baldwin T8S, R3E, Sec. 5, Fractional	13.96	acres
T9S, R1E, Sec. 25, Lot 24	•84	acres
T9S, R1E, Sec. 26, Lots 13 and 14		acres
T9S, R2E, Sec. 25, Lots 73 and 74	11.94	acres
T9S, R2E, Sec. 27, Lots 54 and 55	10.6	acres
Mobile T7S, R2W, Sec. 25,	41.91	acres
Lots 2, 3, 4, and 5		
TOTAL FEDERAL LAND	251.37	acres

# SECTION II. MANAGEMENT AUTHORITY OF THE ACAMP

The legislature of Alabama, through the enactment of 89-7-10-22, as amended by Act 82-612, established the Alabama Coastal Area Management Program to preserve, protect, develop, and where possible to restore and enhance the natural, cultural, historic, aesthetic, commercial, industrial and recreational resources of the State's Coastal Area for this and succeeding generations.

#### A. Alabama Act

In order to carry out this broad charter, the legislature provided the ACAMAS (ADECA and ADEM) with several powers.

# 1. Management Program

The ADECA's Office of State Planning is mandated to develop a comprehensive Coastal Area management program. In Title 9, Chapter 7, Section 10 (reaffirmed in \$22-22A-10) the management program is defined to include, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the State in accordance with the provisions of the Act, setting forth objectives, policies and standards to guide public and private users of lands and waters in the Coastal Area.

Additional authority given to the ADECA in establishing the management program is the ability to determine "permissible land and water uses which have a direct and significant impact within the boundaries of the Coastal Area", (Section 9-7-15 as amended by Section 11 Act 82-612), and the authority to establish priorities of uses in particular areas within the Coastal Area. Particular areas in this context have the same meaning as Geographic Areas of Particular Concern.

# 2. Rules and Regulations

The ADEM, under Title 9, Chapter 7, Section 16 of the Code (as amended) is mandated to develop and promulgate, after notice and opportunity for full participation by relevant federal agencies, state agencies, local governments, regional organizations, port authorities and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the management program provided for in the code.

# 3. Permits

No state agency shall issue a permit for any activity in the coastal area unless the Department of Environmental Management has issued a declaration of consistency with the management program. The Alabama Department of Environmental Management is given authority under Section 4 of Act 82-612 to review each proposed coastal activity in terms of the policies and standards of the coastal management program, to establish any necessary

rules and regulations, and to assure program compliance. More specifically the ADEM is authorized to perform and carry out the following permit activities:

- a. To control pollution in the waters of the state, to conduct any necessary surveys, to review permit applications for activities which would result in a discharge into the states streams and tributaries, and to issue, modify or revoke orders related to the pollution of such water resources, (\$22-22-1 et. seq. as amended).
- b. Issue, deny, revoke or modify permits for the construction or extension of water systems, supplying water for domestic or public purposes (822-23-30 et. seq. as amended).
- c. Issue or deny licenses for water well drilling operations (\$22-24-1 et. seq. as amended).
- d. Issue or deny a license for waste water treatment and disposal operations (\$22-25-1 et. seq. as amended).
- e. To issue or deny and regulate the operation and maintenance of solid and hazardous waste dump and disposal sites. (\$22-27-1, and 22-30-1 et. seq. as amended).
- f. Protect and enhance air quality in the state (\$22-28-1 et. seq. as amended).
- g. To review other state agency permits and make a determination of compliance with the Coastal Management Program (89-7-20, as amended).
- h. Issue permits pursuant to Section 9-7-20, as amended, which provides:
- (1) It is the intent and purpose of this section to avoid duplication whenever possible as to managing activities within the coastal area and yet assure compliance with the management program established by the ADECA and ADEM.
- (2) The ADEM shall review the permitting activities of persons within the coastal area in order to insure consistency with the coastal area management program and where necessary to issue permits to persons to insure compliance and consistency with said program. No agency can issue a permit for any activity in the coastal area that the ADEM finds to be inconsistent with the Coastal Area Management Program.
- (3) There may well be uses of certain lands included within the boundaries of the coastal area which will not have a "direct and significant" impact on coastal waters. Such uses may be subject to regulation by local units of government (cities or counties) within the framework of the management program adopted by the State of Alabama.

(4) Any person, corporation or partnership filing an application for a federal permit for an activity to be conducted within the boundaries of the coastal area shall deliver to the ADEM an informational copy of such application."

# 4. Acquisition of Real Property

The ADECA and ADEM is authorized by Section §9-7-14 and §22-22A-5 (as amended) "to acquire fee simple and less than fee simple interest in land, water, and other property..." when necessary to achieve conformance with the management program.

These sections give the ADECA and ADEM the authority to acquire property by the eminent domain procedure (providing that no property or interest therein may be taken without payment or full compensation and that no property which is already devoted to public use may be obtained by such power) and by other means such as purchase, gift, etc.

# B. Coastal Zone Management Act of 1972

#### Federal Consistency

The Coastal Zone Management Act of 1972 (Title 16 U.S.C. Section 1456) conveys to the State of Alabama the authority to review federal projects, federal licenses and permits, OCS plans, and federal assistance for consistency with the approved management program under the provisions specified in Section 307 of the Act.

Sections 307 (c), (1), (2), (3) and (d) of the Coastal Zone Management Act state:

- (c) (1) Each federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.
- (2) Any federal agency which shall undertake any development project in the coastal zone of a state shall ensure that the project is, to the maximum extent practicable, consistent with the approved management programs.
- (3) ... any applicant for a required federal license or permit to conduct an activity affecting land or water uses in the coastal zone of the state shall provide in the application... that the proposed activity complies with the state program and that such activity will be conducted in a manner consistent with the program.
- (d) Federal agencies shall not approve proposed (financial assistance) projects that are inconsistent with a coastal state's management program.

The ADEM, will determine whether the above federal activities, projects, permits, and assistance are consistent with the management program as provided by Section 307 of the Coastal Zone Management Act. The ADEM will take measures available under Section 307 of the federal act to insure that the actions of federal agencies are consistent with the Coastal Area Management Program.

#### SECTION III. USES SUBJECT TO MANAGEMENT

#### A. Uses with a Direct and Significant Impact on the Coastal Area

The Coastal Zone Management Act of 1972 and its 1976 amendments require that the ACAMP set forth in general terms the uses that will be subject to the provisions of the coastal management program. As a general guide, \$9-7-15 (reaffirmed in \$22-22A-4) specifies that the State manage those land and water uses which are determined to have a direct and significant impact upon coastal waters. These land and water uses which are subject to management under the program will be reviewed by the ADEM either through an existing permitting program, or, in some limited cases, through a new permitting program. See section V of this chapter for a detailed description of the review procedure to which these uses will be subject.

The definition of Direct and Significant Impact provides an operational framework within which to evaluate the inclusion or exclusion of particular uses within the management program.

Direct is defined herein as a causal relationship in which the consequence of an action or use exerts an impact upon the Coastal Area through an identifiable link or process.

Significant Impact is defined herein as the result of any activity which is likely to have a more than negligible effect on the Coastal Area or on coastal resources.

- 1. The following broad categories of uses are determined to have a direct and significant impact upon the Coastal Area:
  - a. Uses which contribute to a waste discharge from point and nonpoint sources to the surface and ground waters of the Coastal Area (nonpoint sources in this context include leachate from solid waste disposal sites and septic tank fields as well as runoff from various types of land uses).
  - b. Uses which contribute to the siltation and sedimentation of coastal waters.
  - c. Uses which lead to the loss of significant quantities of usable water resources.
  - d. Uses which alter water circulation patterns.

- e. Uses which significantly increase vulnerability to natural hazards.
- f. Uses which lead to shoreline erosion.
- g. Uses which alter or destroy wetlands, beaches and dunes, or plants and animals.
- h. Uses which cause the loss of or adversely affect archaeological or historical sites, and
- i. Uses which affect air quality.
- 2. In order to provide additional guidance to persons undertaking uses within the Coastal Area, the following list of uses should be considered subject to the management program.
  - a. Port and harbor development, including facility construction, channel maintenance, and transportation facilities.
  - b. Industrial development, including siting, construction, operation, and transportation.
  - c. Dredging or filling.
  - d. Urban development, including the siting, construction and operation of residential, industrial, and government structures, and transportation facilities.
  - e. Energy development, including siting, construction, and operation of generating, processing and transmission facilities, pipeline facilities, and exploration for and production of oil and natural gas..
  - f. Mining activities, including surface, subsurface, and underground mining, geothermal energy, and mining oyster shells and sand.
  - g. Wastewater discharge, including point and non-point sources.
  - h. Solid waste disposal, and storage of raw materials.
  - i. Recreation developments, including construction and operation of public and private facilities and marinas.
  - j. Commercial fishing.
  - k. Air emissions, and
  - 1. Any other uses which may have a direct and significant impact on the Coastal Area.

#### B. Uses of Regional Benefit

In \$9-7-15 and \$22-22A-4 it is directed that the management program give adequate consideration to the local, regional, state and national interest involved in the siting of facilities for the development, generation, transmission and distribution of energy, adequate transportation facilities and other public services necessary to meet requirements which are "other than local in nature".

This feature of the management program and the accompanying state policy are partially a response to requirements in the Federal Coastal Zone Management Act and its regulatory framework that this management program must identify what constitutes uses of regional benefit and what methods and authorities will assure that local land and water use regulations do not unreasonably restrict or exclude uses of regional benefit, 15 CFR Sections 923.13 and 923.43.

Uses of a regional benefit and uses which are other than local in nature have the same meaning, i.e. uses which produce some benefit by providing services or other benefits to citizens of more than one unit of local government.

#### 1. Uses of Regional Benefit:

- a. Regional or statewide recreational facilities;
- Major transportation facilities such as highways, ports, airports;
- c. Major energy transmission and generating facilities;
- d. Regional water and waste treatment facilities; and
- e. Regional solid waste disposal sites.

#### 2. Authority to Prevent Unreasonable Restrictions

The ACAMP's enabling legislation provides the authority to ADECA and ADEM, to assure that local governments do not unreasonably restrict or exclude land and water use of a regional benefit through their regulations. As explained in Section II, Management Authorities, the ACAMAs have the authority to determine permissible land and water uses which have a direct and significant impact within the boundaries of the Coastal Area.

Through the authorities of the ACAMAS to acquire land, the ADECA and ADEM can assure that sites will be available for use of regional benefit of 89-7-14 and 822-22A-5), and a number of other public and semi-public agencies have the power under Alabama law to condemn or purchase land which could be used for uses of a regional benefit (Table IV-2).

In addition, the management program gives local governments the option to have the codes, regulations, plans, or rules, under which

local licenses or permits are issued, reviewed in advance by the ADEM for consistency with the mangement program. As a part of this review. the ACAMP requires that the code, rule, regulation or plan not unreasonably restrict uses of a regional benefit. If the local mechanism is consistent and is enforced in that manner, the ADEM defers its review function to the local government. Nevertheless, ultimate authority to review these uses rests with the ADEM. If the local mechanism on its face or in its application unreasonably restricts or excludes uses of a regional benefit, the ADEM and ADECA would work with the local government to assure that this feature was eliminated.

#### TABLE IV-2

Agencies, corporations, persons, or units of government which have power of eminent domain which might be used to assure that sites will be available for uses of regional benefit.

#### Alabama Code

#### (1) Regional or statewide recreational facilities

State of Alabama, any county, any municipality	Section 18-1-1
	9-7-14 and
	22-22A-5
Environmental improvement authorities	Section 9-6-8
County housing authorities	Section 24-1-67
Municipal housing authorities	Section 24-1-28

(2) Major transportation facilities	
State of Alabama, any county, any municipality	Section 18-1-1, 9-7-14 and 22-22A-5
Municipal Airports	Section 4-4-6
State airports	Section 4-2-93
Dauphin Island Bridge Authority	Section 23-2-87
State Toll Bridge Authority	Section 23-2-47
Harbor and port authorities	Section 33-1-22
Highways	Section 23-1-45
Alabama Turnpike Authority	Section 23-2-9
Those corporations formed for the purpose of	
constructing, operating, or maintaining	
railroads, water companies, power companies	
terminals, bridges, viaducts, piers, telepho	ne
or telegraph lines, pipelines, or any other	work

(3) Major energy transmission and generating facilities

of internal improvements or a public utility Section 10-5-4

State of Alabama, any county, any municipality Section 18-1-1. 9-7-14 and 22-22A-5 Those corporations formed for the purpose of constructing, operating, or maintaining railroads, water companies, power companies, terminals, bridges, viaducts piers, telephone or telegraph lines, pipelines, or any other work of internal improvements or a public Section 10-5-4 utility Erection of dams, mills, factories, etc. for the public use Section 18-2-1--21 Mining, manufacturing, power, and quarrying corporations Section 10-5-3 (4) Regional water and waste treatment facilities Section 18-1-1 State of Alabama, any county, any municipality Watershed conservancy districts Section 9-8-61 Water conservation and irrigation agencies Section 9-10-34 Section 9-9-21 Water management and drainage districts State of Alabama Section 9-7-14 (5) Regional solid waste disposal sites State of Alabama, any county, any municipality Section 18-1-1 State of Alabama Section 9-7-14 and Section

22-22A-5

#### C. Uses Not Subject to the Management Program

The following uses, which take place within the Coastal Area or which have an impact on it, will not be subject to the management program to the extent that they do not involve dredging, filling, new or additional discharges into coastal waters, or drainage of wetlands.

- All uses which do not have a direct and significant impact within the Coastal Area.
- 2. The accomplishment of emergency decrees of any duly appointed health officer of any county or municipality or the state acting to protect the public health and safety.
- 3. The conservation, repletion and research activities of the Marine Environmental Sciences Consortium, the Marine Resources Division of the Department of Conservation and Natural Resources, and the Mississippi-Alabama Sea Grant Consortium.
- 4. Activities of any mosquito control commission which is a political subdivision or agency of the State of Alabama.
- 5. Completion of any development not otherwise in violation of law for which a valid building permit based on appropriate zoning was issued prior to final approval of the rules and regulations pursuant to this act and which development was initiated prior to such approval.
- 6. The exercise of riparian rights by the owner of the riparian rights, provided that the construction and maintenance of piers, boathouses and similar structures are constructed on pilings that permit a reasonably unobstructed ebb and flow of the tide.
- 7. The normal maintenance and repair of bulkheads, piers, roads, and highways existing on the date of final approval of the management program pursuant to the Act.
- 8. The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.
- 9. Normal maintenance and repair activities of railroad and of utilities or persons engaged in transportation, or in telephone communication service, or in the distribution or transmission of gas, electricity, or water, or the collection of sewage including inspecting, maintaining, repairing, or renewing on private or public rights of way any sewers, mains, conduits, pipes, cables, utility tunnels, power lines, towers, poles, tracks, bridges, trestles, and drainage facilities or the like, or making service connections thereto, or inspecting, maintaining, repairing, or renewing any substation, pumping or lifting facility.

10. The use of any land for the purpose of planting, growing, or harvesting plants, crops, trees, or other agricultural or forestry products, including normal private road construction, raising livestock or poultry, or for other agricultural purposes.

The listing included above of uses which are not subject to the coverage of the management program are obtained from the list of Permissible Uses of the §9-7-13 and §22-22A-3 where the Legislature indicates its intent that those uses be permitted within the management area. Despite their inclusion in the list of excluded uses, they are brought under the jurisdiction of the management program if they involve dredging, filling, new or additional discharge into coastal waters, or draining of wetlands.

#### SECTION IV. SPECIAL MANAGEMENT AREAS

Within the Coastal Area of Alabama, there are specific areas which might require attention beyond the general provisions of \$9-7-14 of the Coastal Area Management Program-special management areas. There are two types of special management areas: Geographic Areas of Particular Concern (GAPC) and Areas for Preservation and Restoration (APR).

#### A. Geographic Areas of Particular Concern (GAPC)

Within coastal Alabama certain areas have been determined to be of particular concern because of their coastal-related values or characteristics or because they may face special pressures. These areas deserve special attention because of their uniqueness and importance to the Coastal Area. They require additional analysis and evaluation because of the complex issues related to these areas. By designating these areas as GAPC's, the ADECA can work with other agencies as well as within its own resources to make these areas a focus for planning and studies to help ease the stress which might be placed on these areas by the expected growth in coastal Alabama.

#### 1. Criteria for GAPC Designation

Based on guidelines established by the National Oceanic and Atmospheric Administration, the ACAMP delineates the following categories to be used as a basis for GAPC nominations:

- a. Important Natural Areas These are areas of unique, fragile, scarce, or vulnerable natural habitat; areas of high natural productivity or essential habitat for living resources, including fish and wildlife, as well as the various trophic levels in the food web critical to the well being of fish and wildlife.
- b. Culturally Valuable Areas These are Coastal Areas of cultural value, historical significance, and scenic importance.
- c. Recreation Areas These are areas of urban concentration where shoreline and water uses are highly competitive.
- d. <u>High Density Areas</u> These are areas of urban concentration where shoreline and water uses are highly competitive.
- e. <u>Significant Commercial and Industrial Areas</u> These are areas of unique or topographic significance to industrial or commercial development.
- f. Natural Hazard Areas These are Coastal Areas that are vulnerable to hazards such as storms, hurricanes, floods, erosion or land settlement.
- g. Natural Protection Areas These are areas needed to protect, maintain or replenish coastal lands or resources.

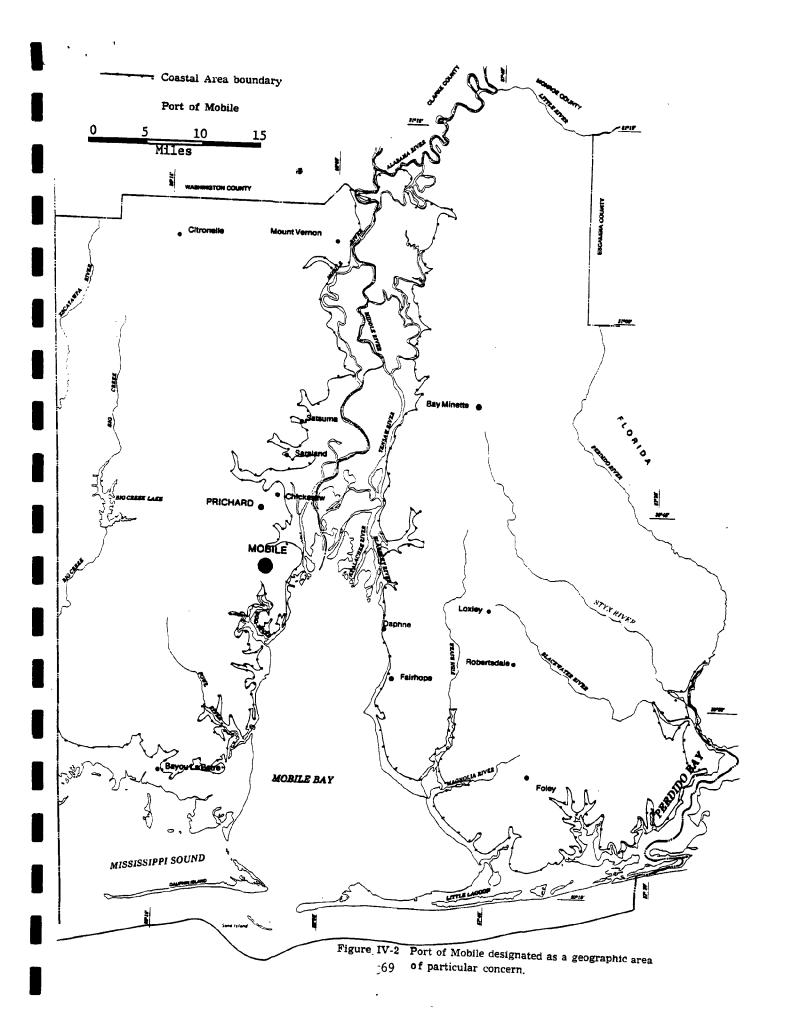
After consultation with various agencies and individuals, extensive review of the entire Coastal Area, careful consideration of all coastal resources, and analysis of many alternatives for CAPC designation, the Port of Mobile and the Mobile-Tensaw Delta were identified as geographic areas of particular concern.

For each GAPC presented, there appears a description of the area, generalized map of the area, summary of the concern or significance of the area, and a listing of use priorities. Priorities of use have been established to provide general guidance in determining the uses in each separate GAPC. Categories of uses which are not mentioned on each list of priority uses are not necessarily excluded from the GAPC; rather, they will be considered to have a lower priority to be conducted in that particular GAPC. Those categories of uses which are specifically prohibited are intended to be excluded from the GAPC. Although a priority of use may be listed under a particular GAPC, there may be special instances where the ACAMP may not authorize such a use to occur. Upon request, the ACAMAs will advise interested persons, based on information available to the ACAMAs whether a parcel is located within a designated GAPC. This decision will be based on the location of the parcel and the category of coastal resources it contains.

#### 2. Designated GAPC's

#### a. Port of Mobile

- (1) <u>Description</u> The Port of Mobile includes the urban waterfront of the Theodore Industrial complex and the urban waterfront of the City of Mobile from Brookley Industrial Area to the confluence of the Mobile River and Three-mile Creek including Pinto Island, McDuffie Island, and Blakeley Island (Figure IV-2). Within these north and south boundaries, the Port of Mobile extends inland to include all local operational facilities relevant to the operation of the port. The Ports, which are the third largest on the Gulf Coast, are served by an excellent network of transportation facilities. Interstate 10 and three railroads provide direct access throughout the Southeast. The ports coal terminal is in the third phase of an expansion that will triple its handling capacity. A 40-foot deep navigation channel provides water access from the port, through Mobile Bay, to the Gulf of Mexico. This channel is too shallow to berth modern day cargo ships. Funds have been appropriated and permits issued to deepen this channel to 55 feet. However, because of the 30 foot channel depth at the Interstate 10 tunnel the port will have to expand its facilities southward. The Alabama State Docks system, which is the largest component of the port, includes about 2,500 acres in five separate locations. More than 35 million tons of cargo passed through the entire port in 1976. More than half of this total was handled by the State Docks.
- (2) Concern or Significance The Port of Mobile is very important to the economic stability of coastal Alabama and the entire state. In 1980 the State Docks generated operating revenues in excess of \$34 million with a net profit of \$9.5 million, almost double the net profit of the previous year.



A tremendous increase in port activity is expected in the near future because of industrial and energy development and especially the completion of the Tennessee-Tombigbee Waterway. The Port of Mobile will be the opening to the open sea for a large portion of cargo transported along this waterway.

A challenge certainly faces the port in order for it to reach its economic potential and still not destroy the coastal resources that are so vital to the character of the area. The port is directly dependent upon adequate facilities and navigation channels, necessitating channel construction and maintenance and disposal of dredge spoils. It is an area of urban concentration where shoreline and water uses are highly competitive.

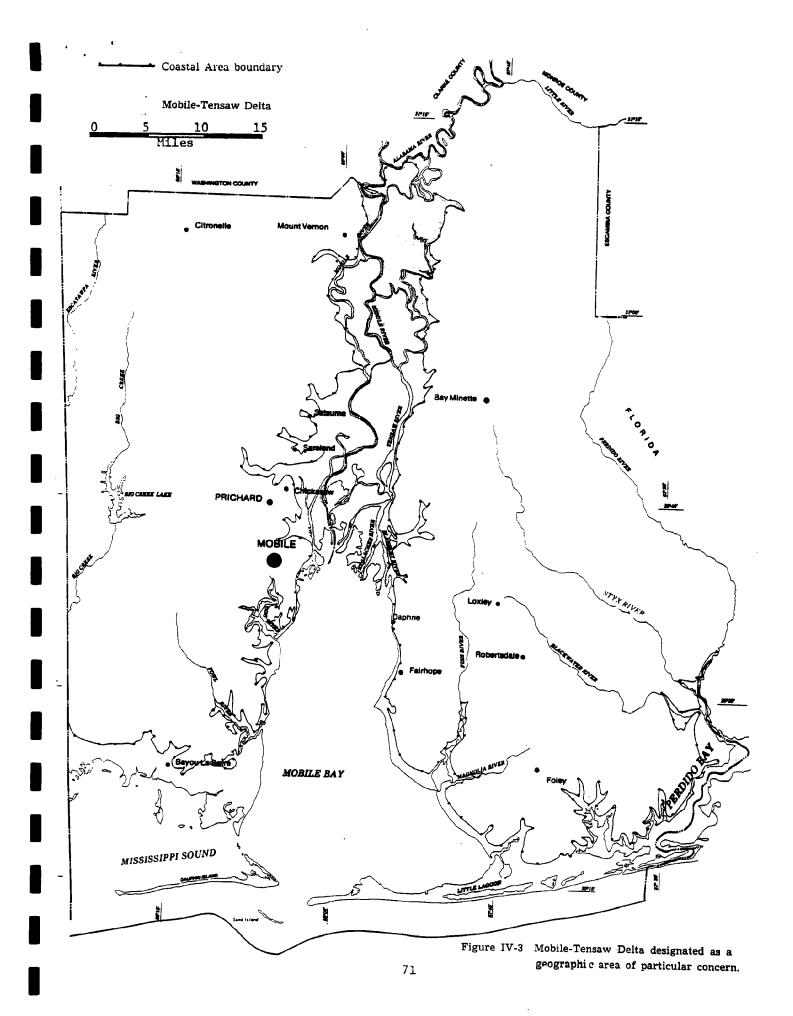
The designation of the Port of Mobile as a GAPC highlights the importance of the Port of Mobile to the economic stability of the Coastal Area and the State. The ADECA will work within its means to provide financial and technical assistance in developing programs to meet the demands on the Port of Mobile in coming years.

- (3) Use Priorities The following priorities of uses established for the Port of Mobile are listed from highest priority to lowest priority. Notwithstanding the use priorities described below, the Operational Rules and Regulations of the ACAMP will apply to all uses undertaken within each GAPC.
- (a) Uses that are water-dependent and improve or promote port operations and development.
- (c) Uses that are not waterdependent nor water-related but improve and promote port activities.
- (b) Uses that are water-related and improve or promote port activities.
- (d) Discouraged: Uses that significantly degrade or interfere with port operations.

#### b. Mobile-Tensaw River Delta

(1) <u>Description</u> - the Mobile-Tensaw River Delta extends from the confluence of the Tombigbee and Alabama Rivers to the delta-front deposits near the U.S. Highway 90 Causeway and the Interstate 10 Bayway. The delta opens into the northern end of Mobile Bay through the Mobile, Tensaw, Apalachee, and Blakely Rivers (Figure IV-3).

Although figures vary according to different sources, the 289 square miles within the delta are estimated to be composed of 20,323 acres of open water; 10,450 acres, fresh-mixed marsh; 69,348 acres, swamp; and 84,839 acres, mixed bottomland forest. The shoreline of the delta from the mouth of the Mobile River upstream to the Mobile-Washington County line is the location of many industries. A portion of this length, from the mouth of the Mobile River to Chickasaw Creek, is heavily industrialized. The causeway is lined with numerous small commercial businesses, but the remainder of the delta remains essentially undeveloped. The delta provides



recreational opportunities for many citizens, mainly hunting and fishing. Some lumbering activities also occur in this area.

(2) Concern or Significance - The delta is a very complex ecosystem which encompasses a rich, productive natural area as well as extensive and diverse wildlife and fishing habitats. The delta represents one of Alabama's most naturally preserved areas and has been placed on the National Register of Natural Landmarks.

The delta is not completely understood in terms of its vulnerability to urban stress. During the coming years it is anticipated that these stresses will become more intense with the expected growth of the area.

The major concern regarding the delta is the potential preemption of wildlife habitat and destruction of wetlands by various types of development. In view of the potential for increased activity in the delta associated with the completion of the Tennessee-Tombigbee Waterway, the need for properly managing this area through reasonable safeguards will become more acute.

Designation of the Mobile-Tensaw River Delta as a GAPC accentuates its importance to the Coastal Area. The ACAMAS will cooperate with other agencies and groups to provide special assistance, both technical and financial, to cope with the stress on this area. Through these special studies a method can be developed to protect these wetlands and wildlife habitats and yet provide for economic growth of the Coastal Area.

- (3) <u>Use Priorities</u> The following use priorities for the Mobile-Tensaw Delta are listed from highest priority to lowest priority. Notwithstanding the use priorities described below, the Operational Rules and Regulations of the ACAMP will apply to all uses undertaken within each GAPC.
- (a) Uses that preserve, enhance, or protect the natural function of tidal and freshwater wetlands located in the delta.
- (b) Uses that are water-dependent and maintain the wetlands in the delta at a level necessary to provide present natural functions.
- (c) Uses of public or private need that maintain the deltaic wetlands at a level necessary to provide natural functions.
- (d) Uses that degrade the integrity and natural functions of the wetlands in the delta beyond present levels.

# 3. Procedure for Designating GAPC's

Section 9-7-15 of the Alabama Code gives the ADECA the authority to designate an area as a GAPC. The GAPC designations may be generic or site specific, and the procedure of designation of GAPC's is set forth in Section VIII, Administrative Policies.

#### B. Areas for Preservation and Restoration (APR)

The second type of special management area, areas for preservation and restoration, have been singled out based on criteria that they have very special conservational, recreational or ecological values. An APR designation indicates an area that deserves special regulatory emphasis in order to preserve the area in its natural state. As such, all uses that degrade an APR shall be discouraged.

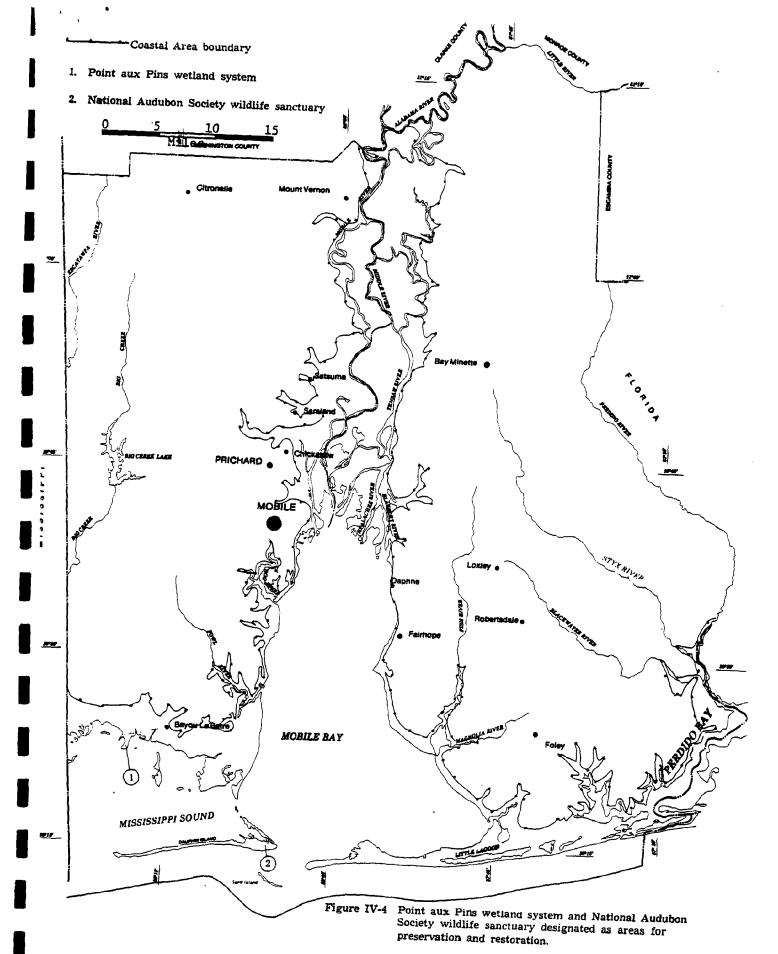
As the Coastal Area becomes more urbanized, the need for preserving certain natural areas becomes increasingly important. Through APR designation, the ADECA designated by Section 9-7-15 of the Alabama Code) will help to preserve these areas for future generations of Alabamians by providing financial assistance to maintain these areas in their natural state and technical assistance to cope with the many factors which could threaten these areas.

Two natural areas in coastal Alabama are presented for APR designation: Point aux Pins wetland system and the National Audubon Society Wildlife Sanctuary (Figure IV-4).

#### Designated APR's

- a. Point aux Pins wetland system Probably the most pristine marsh/estuary remaining in the Alabama Coastal Area, the Point aux Pins area is an ideal location for coastal research. This area, located between Grand Bay and Portersville Bay, owned by the Board of Trustees of the University of Alabama, a corporation, for its divisions the University of Alabama in Birmingham and the University of Alabama, University, Alabama is operated by those two divisions as a research station and wildlife refuge. To establish baseline conditions for undisturbed Alabama marshland, this area is continually studied by researchers of the Marine Environmental Sciences Consortium and other institutions. Adding to its educational value, this area serves as a habitat for many diverse plant and animal species. Because of its natural significance, the Point aux Pins area shall be preserved in its natural state. All activities which would degrade the natural state of this area shall be prohibited.
- b. National Audubon Society Wildlife Sanctuary Located on the eastern portion of Dauphin Island, this 159 acres has been preserved in its natural state. This area is owned by Mobile County and leased to the National Audubon Society for \$500 per year. The costs for any improvements to the sanctuary are provided by private contributions. With the current inflation spiral, it becomes increasingly costly to maintain the area as a sanctuary.

Besides providing a resting place for many species of migratory birds, the area serves as a habitat for many terrestrial and semi-aquatic species. Many individuals visit this sanctuary for varying reasons. It is a place to observe nature in its natural state, thereby contributing to the quality of life and general well-being of all citizens.



By designating this area as an APR, all activities which alter the natural state of this area shall be prohibited. The ADECA will work within its own means with other agencies and groups to preserve this area in its natural state.

## 2. Procedures for Designating APR's

The procedure for designating an area as an APR is identical to the procedure for designating an area as a GAPC as set forth in Section VIII of Chapter Four, Administrative Policies.

### SECTION V. OPERATIONAL RULES, REGULATIONS, AND PROCEDURES

NOTE: This section contains the unofficial ACAMP rules and regulations and the procedures used by the ADEM in reviewing coastal activities. The official rules and regulations for all ADEM functions use the term Department to represent the ADEM. Therefore the ADEM will be represented by Department (ADEM) throughout this section.

#### A. PURPOSE

- l. Coastal Alabama is an area of opportunity and high growth potential, and the attractiveness of the coastal area for tourism, recreational development and industrial development has brought with it competition for the finite and sometimes fragile coastal resources which are located in the area. The legislature recognized the variety of rich natural, commercial, recreational, industrial, and aesthetic resources and the need for the State of Alabama to effectively manage the allocation of these finite resources so that they best serve the present and future interest of the citizens of the State. The legislature specifically recognized the need to protect fragile natural resources on one hand and to provide for efficient development of the coastal area on the other.
- 2. The achievement of balance which provides economic development and the protection of natural resources has been the expressed goal of the Department (ADEM), and the Department (ADEM) will pursue this balance with vigor in the implementation of the management program.
- 3. The Department (ADEM) will work for permit simplification to ensure predictability in permit issuance and to provide technical information in support of economic development. Although the impetus for economic development is in the hands of the private sector and the Department (ADEM) recognizes and supports the rights of private property owners, the Department (ADEM) shall assist, encourage, and foster the economic development which is necessary for the well-being of the citizens of Alabama.
- 4. The rules presented in this Chapter have been prepared to address issues which have been identified in technical studies by the Department (ADEM) and other state and federal agencies. These rules will be used by the Department (ADEM) in implementing the Coastal Area Management Program.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979. Amended: October 10, 1984.

- 8-1-.02 <u>Definitions</u>. For the purposes of this Chapter, the following words and phrases, unless a different meaning is plainly required by the context, shall have the following meanings:
- (a) "agency" means any unit, department, or office of federal, state or local government, including subdivisions thereof.
- (b) "areas for preservation and restoration" means a special group of geographic areas of particular concern singled out because of their conservation, recreational, ecological, or aesthetic values.
- (c) "beach" means a sandy shoreline area characterized by low relief, generally of gentle slope, and some vegetation. The beach extends from the waterline to a change in physiographic form such as a dune or bluff, a change in sediment type, such as clay from sand, and/or a change in vegetation type. Gulf Beaches are those sand beaches of the mainland and islands in Alabama which are subjected to the direct wave action of the Gulf of Mexico. The upper limit of Gulf beaches is usually a transition from halophytic, succulent, prostrate plant forms such as Hydrocotyl bonariensis (pennywort), Cakile Epentula (sea rocket), Iva imbricata (no common name), and Ipomoea stolonifera (seaside morning glory) to a zone occupied by grasses, shrubs, and the same prostrate forms mentioned above. Some grasses indicative of this transition are Uniola paniculata (sea oats), Spartina patens (saltmeadow cordgrass), Panicum amarulum (dune panicgrass), and Distichlis spicata (saltgrass). Shrubs found at this transition are Solidago pauciflosculosa (seaside goldenrod), Ceratiola ericoides (seaside rosemary), Ilex vomitaria (yaupon), Quercus virginica var. maritima (live oak), and Myrica cerifera (waxmyrtle). Estuarine beaches are narrow, low energy beaches occurring along the protected margins of Mobile Bay, Perdido Bay, Mississippi Sound, and their various tributaries. The upper limit of estuarine beaches in Alabama can be distinguished easily by any or all of the three boundaries mentioned previously, that is a change in physiographic form, a change in sediment type, or a change in vegetation type.
- (d) "certificate of compliance" means a document sent to a state agency certifying that after careful review of a proposed use, the Department has determined the proposed use is in compliance with the Coastal Area Management Program.

- (e) "consistency certification" means a document submitted by an applicant for a federal license or permit stating that a use proposed to be undertaken by a person is consistent with the management program and complies with all relevant rules and regulations.
- "coastal area" means coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder) strongly influenced by each and in proximity to the shorelines of Alabama, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The area extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. The inland boundaries of the coastal area are described as follows: begin at the southernmost point on the Mississippi-Alabama state line where the land surface elevation reaches 10 feet above mean sea level and continue in a general easterly direction along the 10-foot contour to the proximity of Mobile Bay; continue in a northerly direction on the 10-foot contour along the western shore of Mobile Bay and the Mobile River delta to the north line of Mobile County; thence southeastward along the north line of Mobile County to the intersection with the Baldwin County lines in the Mobile River; thence along the west and north lines of Baldwin County in the Mobile and Alabama Rivers to the intersection of the southwest corner of Monroe County; thence eastward along the Baldwin County line to the intersection of the westernmost point of Baldwin County where the land surface altitude reaches 10 feet above mean sea level; thence along the 10-foot contour in a southwesterly and southern direction along the Alabama River, the Mobile River delta and the east shore of Mobile Bay to the proximity of Bon Secour; thence continue along the 10-foot contour in an easterly and northeasterly direction to the Alabama-Florida state line.
- (g) "coastal resources" means valuable human, natural, cultural or historical assets within the coastal area, such as water quality, air quality, wetlands and submerged grassbeds, beaches and dumes, wildlife habitats, biological resources, cultural resources, public access to the coastal area, and water resources.
- (h) "coastal waters" means those waters adjacent to the shoreline, which contain a measurable quantity or percentage of seawater, including but not limited to, sounds, bays, lagoons, bayous, ponds and estuaries.

(i) "compelling public interest" means a right recognized at law or an economic, environmental, health, or social interest shared by most persons in the coastal area, which if not recognized and protected, would jeopardize the public well-being.

#### (j) "construction control line" means

- 1. between the western most end of Dauphin Island and plane coordinate (x = 339,869.380 feet; y = 82,413.826 feet) and also between plane coordinates (x = 396,624.613 feet; y = 83,299.904 feet) and (x = 445,081.633 feet; y = 90,661.100 feet), a line running parallel to the shoreline at a point 40 linear feet inland of the most inland point of the crestline; except in the BTL (business, tourist and lodging) and BCR (business, central resort) Zones of the Town of Gulf Shores as defined on July 16, 1984 by the zoning maps of the Town of Gulf Shores, wherein the construction control line means a line running parallel to the crestline at a point five linear feet inland of the most inland point of the crestline;
- 2. the straight line segments formed by connecting plane coordinates (x = 339,869.380 feet; y = 82,413.826 feet) to (x = 343,833.777 feet; y = 82,946.329 feet) to (x = 344,439.935 feet; y = 83,027.749 feet) to (x = 345,229.900 feet; y = 83,267.806 feet) to (x = 346,070.573 feet; y = 83,318.732 feet) to (x = 347,947.400 feet; y = 83,542.163 feet) to (x = 353,678.481 feet; y = 84,097.590 feet) to (x = 358,262.949 feet; y = 84,424.908 feet) to (x = 361,952.301 feet; y = 84,532.314 feet) to (x = 367,652.468 feet; y = 84,352.329 feet) to (x = 370,294.079 feet; y = 84,232.401 feet) to (x = 370,337.309 feet; y = 84,095.345 feet) to (x = 372,723.136 feet; 84,013.940 feet) to (x = 374,515.213 feet; y = 84,209.778 feet) to (x = 381,454.710 feet; y = 83,545.945 feet) to (x = 382,099.449 feet; y = 83,460.299 feet) to (x = 384,804.496 feet; y = 83,494.181 feet) to (x = 388,949.030 feet; y = 83,361.769 feet) to (x = 394,023.606 feet; y = 83,282.288 feet) to (x = 394,115.430 feet; y = 83,209.569 feet) to (x = 396,624.613 feet; y = 83,299.904 feet); and
- 3. the straight line segments formed by connecting plane coordinates (x = 445,081.633 feet; y = 90,661.100 feet) to (x = 445,413.290 feet; y = 90,747.174 feet) to (x = 446,891.053; y = 90,727.783 feet) to (x = 447,623.180 feet; y = 90,791.160 feet) to (x = 448,325.619 feet; y = 90,757.219 feet) to (x = 449,391.117 feet; y = 90,946.878

feet) to (x = 449,929.915 feet; y = 91,035.782 feet) to (x = 451,612.654 feet; y = 91,469.061 feet) to (x = 452,665.982 feet; y = 91,901.813 feet) to (x = 454,188.522 feet; y = 92,349.654 feet) to (x = 455,478.358 feet; y = 92,701.191 feet) to (x = 456,856.032 feet; y = 92,874.036 feet) to (x = 461,865.947 feet; y = 94,391.131 feet) to (x = 463,992.195 feet; y = 94,935.555 feet) to (x = 466,038.578 feet; y = 95,534.410 feet) to (x = 466,816.191 feet; y = 95,695.196 feet) to (x = 467,195.619 feet; y = 95,898.951 feet) to (x = 469,282.178 feet; y = 96,648.946 feet) to (x = 475,472.539 feet; y = 98,380.947 feet) to (x = 476,304.695 feet; y = 98,579.846 feet) to (x = 476,948.092 feet; y = 98,722.141 feet) to (x = 479,249.115 feet; y = 99,050.021 feet) to (x = 479,434.293 feet; y = 99,057.019 feet) to (x = 479,907.870 feet; y = 99,097.293 feet) to (x = 480,904.364 feet; y = 99,236.552 feet) to (x = 488,825.140 feet; y = 100,844.567 feet) to (x = 489,712.334 feet; y = 101,001.701 feet) to (x = 491,026.916 feet; y = 101,322.132 feet) to (x = 494,213.397 feet; y = 101,981.671 feet).

- (k) "crestline" means a line running more or less parallel with the shoreline interconnecting the peaks of the primary dune system.
- (1) "cultural resource" means any district, building, site, object, or other material in American history, architecture, archeology, or culture which is of national, state, or local significance.
- (m) "degrade" means to affect the coastal area in such a manner as to produce a continuing reduction or destruction of present levels of coastal resources.
- (n) "Department" means the Alabama Department of Environmental Management, established by the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1 to 22-22A-13.
- (o) "Department approval" means the approval of any activity requiring a state permit, any use subject to federal consistency provisions, and any local permitting program or the issuance of any Department permit.
- (p) "Department review" means the procedure by which the Department reviews uses subject to management for the purpose of determining whether or not to do any of the following: issue or deny a certificate of compliance;

concur with or object to any person or agency's consistency certification; agree or disagree with an agency's consistency determination; issue a consistency approval or objection; issue or deny a Department permit; or approve or disapprove a local code.

- (q) "consistency determination" means document sent to Department by any Federal agency stating that a use proposed to be undertaken by that Federal agency is consistent with the management program and complies with all relevant rules and regulations.
- (r) "direct" means existence of a causal relationship in which the consequence of an action or use exerts an impact upon the coastal area through an identifiable link or process.
- (s) "discharge" means the addition, introduction, runoff, leakage, spilling or emitting of any waste from any source into the coastal waters.
- (t) "dredging" means removal or excavation of any materials from lands underlying coastal waters.
  - (u) "dune" (see definition of primary dune system).
- (v) "energy facility" means any equipment or facility which will be used in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of any energy resource or for the manufacture, production or assembly of equipment, machinery, products, or devices involved in the activities listed above.
- (w) "energy facility construction and operation plan" means a plan submitted by persons wishing to construct energy facilities which shall identify the impacts of the proposed energy facility on the following coastal resources:

Water Quality
Air Quality
Wetlands and Submersed
Grassbeds
Beaches and Dunes
Wildlife Habitat
Biological Resources

Cultural Resources
Public Access
Shoreline
Flood and Hurricane
Mitigation Areas
Water Resources
Associated Land Uses
Other Coastal Resources

- (x) "estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is reasonably diluted with fresh water derived from land drainage.
- (y) "existing structure" means a structure the construction of which was initiated prior to October 9, 1985, and for which all required state, local and federal authorizations were obtained prior to October 9, 1985.
- (z) "federal consistency" means the provisions by which
- 1. federal agencies conducting or supporting uses directly affecting the coastal area are required to conduct or support those uses in a manner which is, to the maximum extent practicable, consistent with the management program;
- 2. federally licensed or permitted activities affecting the Coastal Area must be conducted in a manner consistent with the management program;
- 3. any person submitting to the U.S. Secretary of the Interior a plan for the exploration of, or development of, or production from, any area leased under the OCS Lands Act shall certify that activities described in the plan which affect the coastal area will comply with and will be conducted consistently with the management program; and
- 4. federal assistance to state and local governments must be consistent with the management program to the extent that it affects the coastal area.
- (aa) "federal development project" means federal activity involving the planning, construction or modification of public works, physical facilities, or other structures, or land or water resources development.
- (bb) "federal permit or license" means any authorization, certification, approval, or other form of permission, and any renewal thereof, which any federal agency is empowered to issue to an applicant. The term also includes the following types of renewals and major amendments which affect the coastal area:
- 1. Renewals and major amendments of federal license and permit activities not previously reviewed by the Department;

- 2. Renewals and major amendments of federal license and permit activities previously reviewed by the Department which are filed after and are subject to management program amendments not in existence at the time of original Department review; and
- 3. Renewals and major amendments of federal license and permit activities previously reviewed by the Department which will cause coastal area effects substantially different than those originally reviewed by the Department.
- (cc) "filling" means introduction of any substance into coastal waters or wetlands with the effect of replacing an aquatic or wetland area with dry land, or significantly changing the bottom elevation of coastal lands underlying coastal waters for any purpose.
- (dd) "interagency coordination" means consultation, both formal and informal, between the Department and any federal, state, or local agency proposing to issue a license or permit for any use in the coastal area.
- (ee) "interagency review process" means review between the agency staff and the Department staff on the proposed project to identify information gaps and other relevant aspects of the project.
- (ff) "local agency" means any duly authorized county or municipal government or agency of a county or municipal government, or special district.
- (gg) "local code" means any regulations, rules, plans, maps, ordinances, codes, or other related documents as well as any subsequent changes thereto which regard uses subject to management.
  - (hh) "major project" means
  - construction and operation of energy facilities;
  - construction and operation of industrial plants;
  - 3. construction of new roads over 1/2 mile in length;
  - 4. dredging operations over 250,000 cubic yards;
  - 5. filling operations over 250,000 cubic yards;

- 6. dredge spoil disposal over 250,000 cubic yards;
- 7. structural methods of erosion control;
- 8. water wells which pump over 50 gallons per minute;
- 9. facilities for the disposal of waste materials including but not limited to municipal and industrial effluent and solid waste;
- 10. commercial and residential projects over 25 acres; and
- 11. other major projects which may be identified by the Department as having a direct and significant impact on the coastal area.
- (ii) "management program" includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the State in accordance with the provisions of Chapter 7 of Title 9, Code of Alabama 1975, as amended, setting forth objectives, policies and standards to guide public and private users of lands and waters in the coastal area.
- (jj) "mediation" means a process used by the Department and a federal agency in cases of serious disagreement to resolve such serious disagreement.
- (kk) "new roads" means state, federal, and local roads over 1/2 mile in length.
- (11) "new structure" means any structure which is not an existing structure.
- (mm) "non-regulated use" means a use which has a direct and significant impact on the coastal area and which does not require a state permit or which is not required by federal law to be consistent with the management program.
- (nn) "non-substantial improvement" means any improvement which is not a substantial improvement.
- (00) "outer continental shelf (OCS) plan" means any plan for the exploration or development of or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. Section 1331 et seq.), or the regulations under that Act, which is submitted

to the Secretary of the Interior following management program approval by OCRM and which describes in detail federal license or permit activities.

- (pp) "person" means any and all persons, natural or artificial, including, but not limited to, any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, or other legal entity or business organization or any state or local governmental entity and any successor of the foregoing.
- (qq) "primary dume system" means a ridge or series of ridges of unconsolidated and usually mobile sands lying landward of the upper limit of Gulf beaches which serves as the principal defense against storm wave attack. Vegetatively, this primary protective dume can be characterized by Uniola paniculata (sea oats), Spartina patens (saltmeadow cordgrass), Panicum amarulum (dume panicgrass), Distichlis spicata (saltgrass), Solidago pauciflosculosa (seaside goldenrod), Hydrocotyl bonariensis (pennywort), and Ipomoea stolonifera (seaside morning glory).
- (rr) "regulated use" means a use which has a direct and significant impact on the coastal area and which requires a state permit or which is required by federal law to be consistent with the management program.
- (ss) "significant impact" means the result of any activity carried out by a person which is likely to have an adverse effect on the coastal area.
- (tt) "state permit" means any license or permit issued for a use which has a direct and significant impact on the coastal area by a duly authorized agency of the State of Alabama.
- (uu) "structure" includes but is not limited to a house, building, deck, pool, parking lot, gazebo or other object the whole or parts of which are arranged by human agency but does not include sand fences or dune walkovers constructed for the purpose of dune protection or enhancement or water, oil, gas, electricity or sewage pipelines or conduits located beneath the surface of lands.
- (vv) "submersed grassbeds" means areas within the coastal area which support rooted vegetation that are not normally emerged even at low tide but remain covered within coastal waters.

- (ww) "substantial improvement" means
- 1. any addition to any structure;
- 2. any extension, enlargement or expansion of any structure; or
- 3. any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the fair market value of the structure either
- (i) before the repair, reconstruction or improvement is started; or
- (ii) if the structure has been damaged and is being restored, before the damage occurred.
- (xx) "use" means any human or corporate activity or result therefrom.
- (yy) "wetlands" means those areas that are inundated or saturated by surface or ground water (salt and fresh) at a frequency and duration sufficient to support, and/or under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Vegetation typically adapted to wetlands in Alabama include but are not limited to the following vegetative species and in addition their presence in significant quantities creates a presumption that the area is a wetland:
  - 1. Saltmarsh

Spartina alterniflora
Juncus roemerianus

2. Brackish-Mixed Marsh

Juncus roemerianus Spartina cynosuroides Distichlis spicata Borrichia frutescens Scirpus spp. Spartina alterniflora Spartina patens

Saltflat

Salicornia sp. Batis maritima Distichlis spicata Fresh-Mixed Marsh Typha angustifolia Typha latifolia

Sagittaria falcata Zizania aquatica Zizaniopsis miliacea

Alternanthera philoxeroides

Scirpus validus Scirpus americanus Orontium aquaticum Phragmites communis Cladium jamaicense Panicum virgatum Vigna repens

5. Saltbush Baccharis halimifolia

Iva frutescens Iva imbricata

6. Savannah

Spartina patens Pinus elliottii Pinus palustris Rhynchospora spp. Juncus spp.

Andropogon spp.

7. Bogs Sphagnum spp. Sarracenia spp.

Cyrilla racemiflora

Ilex glabra Drosera spp.

Dichromena colorata

8. Taxodium distichum Swamp

Taxodium ascendens

Salix nigra

Magnolia virginiana Nyssa biflora

Acer rubrum

Cliftonia monophylla

Pinus serotina

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.

Effective: October 10, 1984. Amended: October 9, 1985.

- 8-1-.03 Permissible Uses. Code of Alabama 1975, § 9-7-13, as amended, declares the following activities to be permissible uses within the coastal area:
- (a) The accomplishment of emergency decrees of any duly appointed health officer of a county or municipality or of the State acting to protect the public health and safety;
- (b) The conservation, repletion and research activities of the Marine Environmental Sciences Consortium, the Marine Resources Division of the Department of Conservation and Natural Resources and the Misissippi-Alabama Sea Grant Consortium;
- (c) The exercise of riparian rights by the owner of the riparian rights; provided, that the construction and maintenance of piers, boathouses and similar structures shall be on pilings that permit a reasonably unobstructed ebb and flow of the tide;
- (d) The normal maintenance and repair of bulkheads, piers, roads and highways existing on August 14, 1979;
- (e) The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling;
- (f) Normal maintenance and repair activities of railroads and of utilities or other persons engaged in transportation or in telephone communication service or in the distribution or transmission of gas, electricity or water or the collection of sewage, including inspecting, maintaining, repairing or renewing on private or public rights-of-way any sewers, mains, conduits, pipes, cables, utility tunnels, power lines, towers, poles, tracks, bridges, trestles and drainage facilities or the like or making service connections thereto or inspecting, maintaining, repairing or renewing any substation, pumping or lifting facility;
- (g) Activities of any mosquito control commission which is a political subdivision or agency of the State of Alabama;
- (h) The use of any land for the purpose of planting, growing or harvesting plants, crops, trees or other agricultural or forestry products, including normal private road construction, raising livestock or poultry or for other agricultural purposes; and

(i) Completion of any development, not otherwise in violation of law, for which a valid building or zoning permit was issued prior to August 14, 1979 and which development was initiated prior to such date.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: October 9, 1985.

8-1-.04 Compliance with Existing Laws, Rules and Regulations. A number of statutes and regulations, both state and federal, relate to the development and preservation of resources within the coastal area. The enforcement of these statutes and regulations constitute an integral part of the operation of the management program. To be consistent with the management program, the use must comply with all the relevant substantive requirements of each of the following state or federal statutes and any regulations adopted pursuant to these statutes to the extent applicable under the terms of those statutes or regulations:

Rivers and Harbors Act of 1899, as amended (33 U.S.C. §§ 401 et seq.); Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251-1376); National Flood Insurance Program Act. as amended (42 U.S.C. §§ 4001 et seq.); Clean Air Act, as amended (42 U.S.C. §§ 7401-7626); Marine Mammals Protection Act of 1972, as amended (16 U.S.C. §§ 1361-1362, 1371-1384); Endangered Species Act of 1972 1973, as amended (16 U.S.C. §§ 1531-1543): National Historic Preservation Act of 1966, as amended (16 U.S.C. §§ 470-470w); National Environmental Policy Act of 1969, as amended (42 U.S.C. §§ 4321 et seq.); Outer Continental Shelf Lands Act, as amended (43 U.S.C. §§ 1331 et seq.); Archeological and Historic Preservation Act of 1974, as amended (16 U.S.C. §§ 469-469a); Code of Alabama 1975, §§ 9-15-1 to 9-15-53, as amended (public lands); Act No. 971, Acts of Alabama 1973, page 1487 (protection of wild sea oats); Act No. 775, Acts of Alabama 1973, page 1184 (protection of sand dunes); Act No. 1096, Acts of Alabama 1975, page 2166 (protection of island beaches);

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Act No. 81-563, Acts of Alabama 1981, page 948 (vehicles on
beaches and dunes);
Act No. 85-339, Acts of Alabama 1985, page
                                                    (red clay on
Dauphin Island);
Code of Alabama 1975, §§ 9-14-1 to 9-14-29, as amended
(state parks);
Code of Alabama 1975, §§ 23-1-1 to 23-1-228, as amended
(public access provisions of highway code);
<u>Code of Alabama</u> 1975, §§ 11-19-1 to 11-19-24, as amended
(flood prone areas);
Solid Wastes Disposal Act, Code of Alabama 1975, §§ 22-27-2
to 22-27-7, as amended;
Alabama Water Pollution Control Act, Code of Alabama 1975,
§§ 22-22-1 to 22-22-14, as amended;
Alabama Air Pollution Control Act of 1971, Code of Alabama
1975, §§ 22-28-1 to 22-28-23, as amended;
Code of Alabama 1975, §§ 9-11-1 to 9-11-398, as amended
(fish, game and wildlife);
Code of Alabama 1975, §§ 9-12-1 to 9-12-184, as amended
(marine resources);
Code of Alabama 1975 §§ 41-9-240 to 41-9-259, as amended
(historical preservation);
Code of Alabama 1975, §§ 41-3-1 to 41-3-6, as amended
(antiquities);
Resource Conservation and Recovery Act of 1976, 42 U.S.C.
§§ 6901 et seq.;
Hazardous Wastes Management Act of 1978, Code of Alabama
1975, §§ 22-30-1 to 2\overline{2}-30-24, as amended;
Code of Alabama 1975, §§ 2-27-1 to 2-27-16, as amended
(registration, sale, and use of pesticides);
Code of Alabama 1975, §§ 2-27-50 to 2-27-63, as amended
(application of pesticides);
Code of Alabama 1975, §§ 9-2-2, as amended (state-owned
lands, and submerged lands);
Code of Alabama 1975, §§ 9-2-120, as amended (state-owned
islands);
Code of Alabama 1975, §§ 9-3-4, as amended (forest
resources);
Alabama Safe Drinking Water Act of 1977, Code of Alabama
1975, §§ 22-23-31 to 22-23-53, as amended;
Code of Alabama 1975, §§ 22-26-1 to 22-26-6, as amended
(sewage); and
Code of Alabama 1975, §§ 9-8-25 to 9-8-30, as amended
(erosion control).
Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8.
Effective: August 14, 1979.
Amended: October 10, 1984; October 9, 1985.
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#### 8-1-.05 General Provisions

- (1) The approval by the Department of any regulated use or non-regulated use or the issuance of any Department permit is conditional upon continued compliance with the management program. In addition, the Department may impose such relevant conditions upon the Department approval as it deems appropriate to assure compliance with the management program.
- (2)(a) Uses that are determined by the Department to degrade the coastal area shall not be permitted nor certified to be in compliance or consistent with the management program unless the Department determines that there is a compelling public interest. If uses of a compelling public interest are permitted by the Department these uses shall be undertaken in a manner that, to the maximum extent practicable, minimizes degradation of the coastal area. The burden of proof that a particular use is of compelling public interest shall be upon the applicant.

The Department shall consider the following factors in any determination in each case in relation to the ability of the use to meet the Department's rules:

- 1. significant national interest such as energy facilities or uses which improve water quality, air quality or wetlands;
- 2. enhancement or protection of geographic areas of particular concern and areas for preservation and restoration, such as construction or improvement of facilities in the Port of Mobile;
- significant economic benefit for the coastal area;
  - 4. water dependency; and
  - 5. other similar factors.
- (b) In each review the Department will make a determination of whether the use is, on balance, consistent with the management program.

(3) Applicants seeking Department approval of major projects which may have a direct and significant impact shall show, to the satisfaction of the Department, the impacts of the proposed use on the following coastal resources:

Water Quality
Air Quality
Wetlands and Submersed
Grassbeds
Beaches and Dunes
Wildlife Habitat
Biological Resources
Other Coastal Resources

Cultural Resources
Public Access
Shoreline
Flood and Hurricane Mitigation
Areas
Water Resources
Associated Land Uses

This information shall be provided as soon as possible after the initial permit application, but in any event, the information shall be provided prior to any request for Department approval. Documentation of impacts developed pursuant to the National Environmental Policy Act (NEPA) or pursuant to the requirements of any other state or federal agency shall be accepted by the Department under this requirement. However, such acceptance shall not relieve the applicant of the responsibility for providing the Department with the documentation of additional impacts not covered in the original documentation, as specified by the Department.

- (4) The procedures in Rules 8-1-.21 through 8-1-.28 and 8-1-.32 shall be followed by the Department in reviewing uses subject to management and monitoring and enforcing the Department's rules.
- (5) If the Department finds that an imminent peril to the public health, safety or welfare requires immediate action without adherence to the procedures set out in this Chapter, the Department may proceed to approve such proposed emergency actions without prior notice or hearing. Such emergency approvals shall be effective for a period of no longer than 120 days.
- (6) The provisions of Rule 8-1-.05 shall determine the scope and applicability of the provisions of Rules 8-1-.06 through 8-1-.20.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979.

Amended: October 10, 1984; October 9, 1985.

# 8-1-.06 <u>Siting, Construction and Operation of Energy</u> Facilities

(1) Persons wishing to construct energy facilities which may have a direct and significant impact on the coastal area must submit an energy facility construction and operation plan to the Department which shall identify the impacts of the proposed energy facility on the following coastal resources:

Water Quality
Air Quality
Wetlands and Submersed
Grassbeds
Beaches and Dunes
Wildlife Habitat
Biological Resources
Other Coastal Resources

Cultural Resources
Public Access
Shoreline
Flood and Hurricane Mitigation
Areas
Water Resources
Associated Land Uses

- (2) The Department will use the energy facility construction and operation plan as a basis for the certification decisions on proposed projects.
- (3) Siting, construction and operation of energy facilities that degrade the coastal area shall not be permissible.
- (4) All energy facility siting, construction and operation must meet the requirements established elsewhere in this Chapter.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979. Amended: October 10, 1984; October 9, 1985.

#### 8-1-.07 Dredging and Filling

- (1) Dredging and filling operations shall not be permissible if such activity is determined by the Department to degrade the coastal area.
- (2) Because of their detrimental effect on coastal water quality, new dead end canals shall not be permissible in the coastal area unless it is determined by the Department that such activity will not degrade the coastal area.

- (3) Proposed channel construction or channel maintenance providing access to existing or approved docks, marinas, yacht basins or other water dependent facilities shall be permissible only if there are no other reasonable means of access to such facilities.
- (4) Dredge spoil materials shall be deposited in upland areas or in offshore Gulf of Mexico areas unless it is determined by the Department that the dredge spoil material may be used in another manner that will not degrade the coastal area.
- (5) No dredge spoil, fill, or other foreign solid materials shall be deposited in waters of the coastal area unless it is determined by the Department that such deposition will not degrade the coastal area.
- (6) Normal maintenance dredging of existing channels shall be permissible if the dredging operation maintains the channel within the original design specifications. The disposal of dredge spoil materials from such operations shall be in conformance with paragraphs (4) and (5) of this Rule.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979. Amended: October 10, 1984; October 9, 1985.

#### 8-1-.08 Shoreline Erosion Mitigation

- (1) Any use intended to mitigate a shoreline erosion problem in the coastal area shall use non-structural erosion control methods to the maximum extent practicable, including but not limited to preservation and restoration of dunes, beaches, wetlands and submersed grassbeds, and shoreline restoration and nourishment.
- (2) The emplacement of groins, jetties, and breakwaters as erosion control devices shall be permissible only when no other technically feasible alternative means of control is available and it is determined by the Department that there would be no substantial harm.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979. Amended: October 10, 1984; October 9, 1985.

8-1-.09 Public Access to Coastal Waters. All public projects proposed for location within the coastal area shall to the maximum extent practicable provide visual and physical public access to Alabama's coastal waters, and all non-public activities are encouraged to provide for visual and physical access as well.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979. Amended: October 9, 1985.

#### 8-1-.10 Avoidance of Natural Hazards

- (1) All development shall be designed, located, constructed, and operated in a manner that avoids:
- (a) Significantly increasing the potential for flood, hurricane, or other storm damage or increasing the likelihood that damage will occur from floods, hurricanes, or storms; and
- (b) Significantly reducing floodwater storage capacity.
- (2) Public works projects should not facilitate or encourage development in the 100-year flood plain as mapped under the Flood Insurance Program.
- (3) The use of the 100-year flood plain for conservation or basic recreational use is strongly encouraged.
- (4) All development proposed for a coastal location which is vulnerable to hurricane surge and wave attack shall be designed, located, constructed and operated in a manner which will not significantly increase the potential damage resulting from a hurricane.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979. Amended: October 9, 1985.

## 8-1-.11 Solid Waste Disposal

- (1) Solid waste disposal sites shall not be permissible in wetlands, beaches or dunes.
- (2) Solid waste disposal sites shall not be permissible in any location where the disposal of solid wastes would degrade wetlands, beaches, dunes or coastal waters.
- (3) Solid waste disposal sites shall be located outside the boundaries of the coastal area, unless no other reasonable alternative is available. If a site within the coastal area is proposed for development as a solid waste disposal site, it shall be demonstrated to the satisfaction of the Department that siting, design, construction, and operation will ensure that present levels of coastal plants and animals will be maintained.

Statutory Authority: Code of Alabama 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979. Amended: October 10, 1984; October 9, 1985.

# 8-1-.12 Discharges to Coastal Waters

- (1) The requirements of this paragraph will be imposed upon new point source discharges into the coastal waters of Alabama in addition to existing state and federal water quality regulations.
- (a)1. Before a project begins, the permit applicant wishing to discharge into coastal waters will test the toxicity of its effluent on various plants and animals to determine the impact of its discharge upon the plants and animals of the coastal area. The plants and animals to be considered and the type of toxicity tests to be required will be determined by the Department in light of the quantity and nature of the effluent.
- 2. The permit applicant will determine the present levels of plants and animals at the point of discharge within a Discharge Information Zone (DIZ). The DIZ will be a circle with a radius of 400 feet. The center of the DIZ will be the discharge point. The Department may modify the application of the DIZ concept based upon technological advances if it determines that these changes will enhance the coastal area program. This testing program will consist of the following:

- (i) Characterization of the bottom sediments of the DIZ; and
- (ii) biological characterization within and around the DIZ through the collection and analysis of biological species as specified by the Department.
- 3. Once the permit applicant for a regulated use has determined present levels of plants and animals, these present levels will form the basis for measuring adherence of the use with the water quality standards of the management program. The use will not be in compliance with this Rule if it results in degradation at the perimeter or outside of the DIZ.
- (b) If the Department approves a regulated use and the regulating agency issues a permit or otherwise approves the discharge into coastal waters, the following procedure shall be followed to assure compliance:
- 1. The discharger shall continue to take samples as specified by the Department to determine the impacts of the discharge on the biology of the DIZ.
- 2. Monitoring reports shall be furnished by the discharger to the Department on a monthly basis or as otherwise agreed to by the Department.
- 3. The discharger shall not allow biological damage to occur at the perimeter of or outside the DIZ.
- 4. If the biological monitoring shows evidence of biological damage at the perimeter or outside of the DIZ, the Department shall notify the discharger that he is in violation of this Rule.
- 5. Upon receipt of the violation notification from the Department, the discharger shall provide the Department with a plan to correct and eliminate the biological damage caused by the discharge.
- (2)(a) The results of the biological sampling program for existing point source discharges shall be provided to the Department at the time that the waste discharger's NPDES permit comes due for renewal.

- (b) Every existing discharger with a discharge over 1 MGD shall be required to determine the extent of the impact of the discharge on the biology of the coastal waters by conducting biological sampling, as specified by the Department from the outfall point to a sufficient distance up and downstream from the outfall to indicate where their discharge ceases to have an impact upon the plant and animal life of the receiving waters.
- (c) The results of the biological sampling will determine "present levels" of biological activity. Present levels will be the standard which existing dischargers must meet.
- (d) Existing dischargers are not required to reduce their present area of degradation. Existing industries which degrade a smaller area than the DIZ will be able to expand their area of degradation to the edge of the DIZ. Dischargers which presently degrade an area larger than the DIZ will be required to control their effluent so that it does not destroy plants and animals outside the present area of degradation.
- (3)(a) Developments greater than 25 acres in size will obtain a permit from the Department before starting construction.
- (b) The developer shall submit an erosion control plan to the Department as part of its permit application. The erosion control plan must show the Best Management Practices (BMPs) which will be used to control erosion before, during, and after construction.
- (c) The following BMPs are recommended for controlling runoff from construction and new developments. Permit applicants shall implement these BMPs to control erosion to the maximum extent practicable.

Mulching
Sodding
Diversion berms
Sedimentation catch basins
Clean up practices
Recreational area storage
Diversion structures
Aeration of soils
Ponds

Detention basins
Porous pavements
Holding tanks
Infiltration systems
Channel storage
Minimize disturbed land area
Minimize the duration of
exposure to natural elements
Retain natural vegetation

- (4)(a) Runoff from raw materials stockpiles or a series of stockpiles of a size of five acres and above shall be controlled to ensure that it does not degrade the coastal area.
- (b) Owners of new materials stockpiles shall submit to the Department a "Raw Materials Stockpile Plan" which demonstrates that runoff from the stockpile will not degrade the coastal area.

## 8-1-.13 Wetlands and Submersed Grassbeds

- (1) Before undertaking any project in wetlands or submersed grassbed areas, the applicant must demonstrate to the satisfaction of the Department that the proposed activity will not degrade the natural function of the wetlands or submersed grassbeds to support present levels of plants and animals, act as a buffer against storm surges, or any other natural functions.
- (2) The Department may accept the replacement or creation of an amount of wetlands equivalent to that necessary to support present levels of plants and animals as compensation for the loss of wetlands resulting from an approved project.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979. Amended: October 10, 1984; October 9, 1985.

8-1-.14 Air Contaminant Emissions. Air contaminant emissions from an identifiable source that degrade plant or animal life in the coastal area shall not be permissible.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979. Amended: October 10, 1984; October 9, 1985.

8-1-.15 Protection of Oyster Reefs. Uses within the coastal area that degrade oyster reefs shall not be permissible.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979. Amended: October 9, 1985.

## 8-1-.16 Construction or Activity on Beaches and Dunes

- (1) No person shall construct any new structure, or make any substantial improvement to any existing structure, on, beneath or above the surface of any land located between mean high tide and the construction control line.
- (2) No person shall construct any new structure on, beneath or above the surface of any state owned lands located in the following areas:
- (a) between mean high tide and a line originating at plane coordinate (x = 339,562.58 feet; y = 83,758.99 feet) and extending South  $77^{\circ}$  59' 16" West in Baldwin County;
- (b) between mean high tide and Alabama Highway 180 between plane abscissas (x = 339,562.58 feet) and (x = 343,833.777 feet); or
- (c) in Sections 2 and 3 of Township 4 South, Range 33 West in Baldwin County.
- (3)(a) No person shall construct any new structure on, beneath or above the surface of any parcel of land owned by a person if any portion of such parcel is intersected by the construction control line without first having obtained a permit therefor from the Department.
- (b) A permit for construction of a new structure under subparagraph (a) of this paragraph shall be issued if the Department is satisfied that the proposed structure is not on, beneath or above the surface of any lands located between mean high tide and the construction control line and will otherwise comply with the requirements of this Chapter. An application for a permit to construct a structure under subparagraph (a) of this paragraph shall contain:
- 1. a legal description of the property on which the structure is located;

- 2. an area map showing the location of the property and structure in relation to roads and other recognized landmarks;
  - 3. a complete description of the structure;
- 4. a survey of the property prepared by a registered land surveyor showing the location of the structure and construction control line;
- 5. an identification of the water supply source and wastewater disposal system; and
- 6. such other information as the Department may reasonably require.
- (4) No person shall alter the primary dume system between mean high tide and the construction control line through the removal of dune or beach sands and grasses, through the operation of vehicles on the dune system, or through any other activity.

## 8-1-.17 Water Wells

- (1) Any person who proposes to construct a new well or significantly alter an existing well in order to pump more than 50 gallons of water per minute shall obtain a permit for construction of the well from the Department.
- (2) Applications for construction permits shall be submitted to the Department on forms requiring such information as described by the Department. The application shall include:
  - (a) size, depth, and location of proposed well(s);
- (b) construction diagram of the well (including intervals to be screened);
- (c) estimated range of daily pumping capability and anticipated withdrawal rates; and
- (d) other information determined necessary by the Department.

- (3) Construction permits may be issued after the consideration of pertinent factors, including the existing use of groundwater resources, immediately prospective use of groundwater resources, and the recharge capacity of affected aquifer(s). In no event will permits be issued if it appears that normal pumping activities of the well will result in salt water intrusion into any coastal, fresh, groundwater resource.
- (4) After issuance of a construction permit for construction of a well, the applicant will submit such test data as is required by the Department. Testing of the well may be required to be performed in cooperation with the Department. Prescribed test results will be used to establish the effect of the well on groundwater resources. Based upon all available information, a permit to operate the well will be issued if normal operation of the well does not adversely impact the existing groundwater or result in salt water intrusion into any coastal area fresh groundwater resource.

# 8-1-.18 Protection of Cultural Resources

- (1) All development in the coastal area shall to the maximum extent practicable avoid adversely affecting historic, cultural, or archaeological resources of the coastal area.
- (2) Any person shall notify the Department of any historical, cultural, or archaeological resources that are discovered in the course of conducting a permissible use in the coastal area.
- (3) The Department may issue an emergency cease and desist order, effective for a period of 30 days, if an ongoing project threatens an historical, cultural, or archaeological resource.
- (4) All uses subject to the management program shall to the maximum extent practicable, be undertaken in such a way as to minimize damage to historic and archaeological sites in the coastal area.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979.

Amended: October 10, 1984; October 9, 1985.

8-1-.19 Protection of Fishery Habitats. To the maximum extent practicable, all uses within the coastal area shall be undertaken in such a way as to not degrade fishery habitats.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979. Amended: October 9, 1985.

8-1-.20 Protection of Wildlife and Wildlife Habitats. To the maximum extent practicable, all uses within the coastal area shall be undertaken in such a way as to preserve and protect existing wildlife and wildlife habitats. In particular, endangered species and their habitat, as designated by appropriate federal and state agencies, shall be protected to the maximum extent practicable.

Statutory Authority: Code of Alabama 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979. Amended: October 9, 1985.

## 8-1-.21 Review Process Generally

(1) Rules 8-1-.21 through 8-1-.28 describe the procedure which the Department will follow when reviewing uses that are subject to the management program. The review process presented here may be modified based on memoranda of agreement which are agreed to by the Department and another agency whose permits are subject to Department review. It is the intention of the Department to avoid the duplication of permitting efforts by the state and federal agencies in the coastal area. With a small staff, the Department does not intend to duplicate the technical efforts of the existing permitting agencies. The Department will review uses that are subject to the management program concurrently with the permitting agency's review in order to expedite the approval process.

- (2) The Department fully supports the "one-stop" permit concept and will continue to work for such a procedure. Persons wishing to develop property in the coastal area will be able to come to the Department's office, obtain copies of permit applications, and obtain assistance in properly filling out the forms required by other agencies. This service will be available to anyone who wishes to conduct an activity within the coastal area.
- (3) Uses subject to the management program are divided into two categories for purposes of the Department's review process:
- (a) Regulated Uses--those uses which have a direct and significant impact on the coastal area and which require a state permit or which are required by federal law to be consistent with the management program. Regulated uses in turn are subdivided into two subcategories for the review procedure:
- 1. State All uses which have a direct and significant impact within the coastal area and which are required by law to obtain a permit from a state agency.
- 2. Federal All uses which have a direct and significant impact on the coastal area and which are required by federal law to be consistent with the management program.
- (b) Non-Regulated Uses--those uses which have a direct and significant impact on the coastal area and which do not require a state permit or which are not required by federal law to be consistent with the management program.
- (4) In addition to review of applications submitted to the Department, the Department may, on its own initiative or in response to information given to it, investigate an ongoing or proposed use within the coastal area in order to determine whether such use is subject to the management program. If it is determined that the use is subject to the management program, the person conducting or proposing the use shall be requested to submit the use for Department review and to cease or postpone the use pending this review. If the Department is unsuccessful in getting voluntary cooperation from the person involved, the Department shall seek remedies as described in Rule 8-1-.32.

- (5) With reference to all uses subject to the management program the purpose of the procedure which is set out below is for the Department to make a compliance, consistency, or permit decision. A compliance, consistency, or permit decision is a determination by the Department of whether a use is consistent with the overall policies and purposes of the management program and whether it complies with all relevant rules. A Department decision may take any of the following forms:
- (a) Review of state agency permits--issuance or denial of a certificate of compliance;
- (b) Review of federal projects and activities -- agreement or disagreement with the agency's consistency determination;
- Review of federal permits--concurrence with or objection to applicant's consistency certification;
- (d) Outer Continental Shelf Lands Plans--concurrence with or objection to a person's consistency certification;
- (e) Federal assistance to local government--consistency approval or objection;
  - Non-regulated uses--issuance or denial of permit;
- (g) Local permitting programs -- approval or disapproval of local permitting program.
- (6) The provisions of Rules 8-1-.23 through 8-1-.26 relating to federal consistency are intended to provide guidance to interested persons concerning the process that will be followed in implementing the federal consistency regulations, 15 C.F.R. Part 930, adopted by OCRM pursuant to the Coastal Zone Management Act of 1972. In no case will those provisions relieve any person of the obligation of meeting the requirements of the federal consistency regulations.

# 8-1-.22 Review Process for State Agency Permits

- (1) No State agency shall issue a permit for a use having a direct and significant impact within the coastal area unless, in accordance with the procedure set out in this Chapter, the Department issues a certificate of compliance, or the Department determines that the use is not subject to the management program.
- (2) Within ten days of receipt of a permit application for a use subject to the management program, the state agency shall send to the Department an informational copy of the complete application along with any supporting documents submitted by the applicant. Upon receipt of the application copy, the Department shall begin its review process and shall initiate interagency coordination.
- (3) If at any time during the review process the Department determines that the use is not subject to the management program, the applicant and the State agency will be so notified as soon as practicable, and the Department will no longer review the application.
- (4) As early as possible in the review process the Department will attempt to make known to the state agency the information needed to complete the review. The agency should facilitate this process by making known to the Department as early as possible the results of its own investigations of the potential or actual impact of the use on the coastal area.
- (5) After completion of its analysis, the state agency will notify the Department that the permit applicant has completed the steps necessary for permit issuance and that the agency is prepared to issue the permit upon Department concurrence, and that the agency will condition permit issuance upon compliance with the management program and any special limitations placed upon the permit by the Department. Following receipt of this notification, the interagency review process will be initiated. The staffs of the state agency and the Department will meet, where necessary, to discuss and review the proposed project. Following this meeting or series of meetings, the agency may send a written request for a certification from the Department.
- (6) After receipt of the request for a certification and an informational copy of the complete application, the Department will do one of the following:

- (a) Issue a certificate of compliance; or
- (b) Deny a certificate of compliance.
- (7) If the Department denies a certificate of compliance, the reasons and supporting details for the denial will be provided to the applicant and to the State agency, along with any alternative means to conduct the use in compliance with the management program. The Department may deny certification on the grounds that the agency has not furnished it with sufficient information to make an adequately informed decision, in which case the agency will be notified of the specific information needed. But in no event shall lack of information be a ground for denial unless the Department requested the information prior to the request for certification.
- (8) The Department will work with state agencies to develop memoranda of agreement where appropriate to facilitate the permitting of regulated uses within the coastal area.

# 8-1-.23 Review Process for Federal Projects and Activities

- (1) Pursuant to 15 C.F.R. Part 930, Subpart C, functions performed by or on behalf of a federal agency in the exercise of its statutory responsibilities and development projects undertaken by or on behalf of a federal agency involving the planning, construction, modification, or removal of public works, facilities, or other structures, in the acquisition, utilization, or disposal of land or water resources which directly affect the coastal area are required to be undertaken in a manner consistent to the maximum extent practicable, consistent with the management program. The Department shall review and respond to federal agency consistency determinations in accordance with the provisions of 15 C.F.R. Part 930, Subpart C.
- (2) Federal activities which are likely to directly affect the coastal area and require a federal agency consistency determination under the provisions of 15 C.F.R. Part 930, Subpart C, include, but are not limited to, the following:

- (a) Property acquisition or disposal within the coastal area;
- (b) Discharge of wastes into the air or water of the coastal area;
  - (c) Road construction within the coastal area;
- (d) Disposition, design, construction, alteration or maintenance of any facilities on lands located within the coastal area:
- (e) Programs related to management of coastal resources;
  - (f) Activities affecting water quality or quantity;
  - (g) Transport of hazardous substances; and
- (h) Other activities that could directly affect coastal resources due to their size, location, or manner of construction.

# 8-1-.24 Review Process for Federal Licenses or Permits

- (1) Pursuant to 15 C.F.R. Part 930, Subpart D, uses which are federally licensed or permitted activities affecting the coastal area are required to be conducted in a manner consistent with the management program. The Department shall review and respond to a federal license or permit applicant's consistency certification in accordance with the provisions of 15 C.F.R. Part 930, Subpart D.
- (2) Federal license and permit activities which are likely to affect the coastal area and which the Department wishes to review for consistency with the management program include, but are not limited to, the following:

### Agency

#### Licenses and Permits

Citation

Department of Defense

Permits required under section 10 and 11 of the River and Harbor Act of 1899.

33 U.S.C. §§ 403 and 404

Agency	Licenses and Permits	Citation
	Permits required under Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972.	33 U.S.C. § 1413
	Permits required under Section 404 of the Federal Water Pollution Control Act of 1972, as amended.	33 U.S.C. § 1344
Environmental Protection Agency	Permits and licenses 33 required under Sections 401, 402, 403, 404 and 405 of the Federal Water Pollution Control Act of 1972, as amended.	U.S.C. §§ 1341-1345
	Permits and applications for redesignation of land areas under regulations for the prevention of significan deterioration of air quality	
	Permits required under the Marine Protection, Research and Sanctuaries Act of 1972	33 U.S.C. § 1412
	All other permits for water pollution control.	
	All other permits for air pollution control.	
Department of Transportation	All permits for solid waste control.	
	Permits for construction and modification of bridges and causeways in navigable waters.	33 U.S.C. \$ 401
	Permits for transporting hazardous substances and materials.	·
	Licenses for deep-water ports.	15 C.F.R. §§ 158 et seq.

Agency	Licenses and Permits	Citation
Nuclear Regulatory Commission	Permits and licenses require for siting and construction nuclear power plants.	
Federal Energy Regulatory Commission		16 U.S.C. §§ 797(e) and 808
	Orders interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act.	16 U.S.C. § 824a(b)
	Certificates required for the construction and operation of natural gas pipeline facilities, defined to include both interstate pipeline and terminal facilit under Section 7(c) of the Nat Gas Act.	ties
	Permission and approval required for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act.	15 U.S.C. § 717f(b)
Department of the Interior	required for all onshore activities related to	30 U.S.C. §§ 181 <u>et</u> seq. D U.S.C. §§ 351-359
	Permits and licenses required for geothermal operations.	Geothermal Steam Act of 1970
Department of Agriculture	Permits for water easements and timbering activities on National U.S. Forest Service land.	43 U.S.C. \$ 1716

#### Agency

#### Licenses and Permits

## Citation

16 U.S.C. § 497

Permits and licenses for use and occupancy of land for hotels, resorts, summer homes, stores and facilities for industrial, commercial, educational or public use.

Department of Energy

Permits for the construction, operation, siting of energy facilities.

Department of Commerce

Permits for research involving taking endangered Act of 1973 species or marine mammals or for taking of marine mammals for public display or incidental to commercial Protection Act fishing.

Endangered Species 16 U.S.C. §§ 1531-1543 Marine Mammal 16 U.S.C. §§ 1361-1407

- (3) In addition to the data and information required to be furnished to the Department along with the consistency certification pursuant to 15 C.F.R. § 930.58, the following data and information must be furnished:
- (a) An informational copy of the application for the license or permit;
- (b) A copy of the federal agency's written determination that the license or permit application is complete;
- (c) A copy of the federal agency's draft or proposed license or permit if a draft or proposed license or permit is required to be prepared by federal law or regulations;
- (d) A copy of any transcript of any public hearing conducted by the federal agency concerning the federal license or permit application and all written comments received by the federal agency during any comment period; and
- (e) A copy of any Environmental Impact Statement required under the National Environmental Policy Act § 102, 42 U.S.C. § 4332 or implementing federal regulations.

# 8-1-.25 Review Process for Activities Described in Outer Continental Shelf Lands Plans

- (1) Pursuant to 15 C.F.R. Part 930, Subpart E, any proposed activity requiring a federal license or permit which is described in detail in any plan for the exploration of, or development of, or production from, any area leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), and the regulations under that Act, which is submitted to the United States Secretary of the Interior and which affects the coastal area is required to comply with the management program and to be conducted in a manner consistent with the management program shall review and respond to any person's consistency certification in accordance with the provisions of 15 C.F.R. Part 930, Subpart E.
- (2) In addition to the data and information required to be furnished to the Department pursuant to 15 C.F.R. § 930.77, the person shall identify the following applicable documents and shall furnish copies of such documents upon request:
- (a) The spill contingency plan including a listing of on-rig pollution control equipment available for immediate use;
- (b) National Pollutant Discharge Elimination System permit issued by the U.S. Environmental Protection Agency under the Federal Water Pollution Control Act § 402, 33 U.S.C. § 1342; and
- (c) Environmental Impact Statement required under the National Environmental Policy Act § 102, 42 U.S.C. § 4332 or implementing federal regulations.

Statutory Authority: Code of Alabama 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979. Amended: October 10, 1984; October 9, 1985.

# 8-1-.26 Review Process for Federal Assistance to Local Governments

- (1) Pursuant to 15 C.F.R. Part 930, Subpart F, assistance provided under a federal program to any unit of state or local government, or any related public entity such as a special purpose district, through grant or contractual arrangements, loans, subsidies, guarantees, insurance, or other form of financial aid for activities affecting the coastal area are required to be consistent with the management program. The Department shall review and respond to the federal agency proposing assistance in accordance with the provisions of 15 C.F.R. Part 930, Subpart F.
- (2) Types of federal assistance programs subject to a consistency review under 15 C.F.R. Part 930, Subpart F, include, but are not limited to the following:
- (a) Grants or loans by the U.S. Department of Agriculture, Farmers Home Administration;
- (b) Housing development grants by the U.S. Department of Housing and Urban Development;
- (c) Grants by the U.S. Department of Transportation, Federal Aviation Administration;
- (d) Grants or loans from the Land and Water Conservation Fund by the U.S. Department of the Interior;
- (e) Grants or loans by the U.S. Department of Commerce for public works and development;
- (f) Community development block grants by the U.S. Department of Housing and Urban Development;
- (g) Sewage treatment construction grants by the U.S. Environmental Protection Agency; and
- (h) Urban development action grants by the U.S. Department of Housing and Urban Development.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979.

Amended: October 10, 1984; October 9, 1985.

# 8-1-.27 Review Process for Non-Regulated Uses

(1) Any person wishing to conduct a non-regulated use in the coastal area must make an application to the Department for a Department permit. Non-regulated uses include:

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- (a) construction on beaches and dunes and in the 100-year flood plain;
- (b) developments greater than twenty-five acres in size;
  - (c) extraction of groundwater resources; and
- (d) any other uses which may have a direct and significant impact on the coastal area and which do not require a state permit or which are not required by federal law to be consistent with the management program.
- (2) The review procedure is initiated by submission to the Department of a completed application form supplied by the Department. Upon receipt of the application, the Department shall begin its review process, shall inform the permit applicant of the information and studies which will be required, and shall give notice to the applicant of receipt of the application and of the availability of a public hearing upon request.
- (3) If the Department finds during the course of its review that the use will not have a direct and significant impact within the coastal area, it will so notify the applicant, and the application will no longer be reviewed by the Department.
- (4) Following receipt of the complete application for a permit, the Department shall do one of the following:
- (a) Issue a permit for the use with or without conditions; or
  - (b) Deny the permit.
- (5) A permit may be issued subject to any or all of the following limitations:
- (a) Continued monitoring by the applicant and/or the Department or its agent.

- (b) Continued compliance with the management program.
- (c) Specific changes in the means of conducting the use as set out in the application.
  - (d) Other limitations specified by the Department.

# 8-1-.28 Review Process for Local Permitting Programs

- (1) <u>Code of Alabama</u> 1975, § 9-7-10 <u>et seq.</u>, as amended, encourages counties and municipalities to exercise effectively their responsibilities in the coastal area through the development and implementation of administration programs to achieve wise use of the land and water resources of the coastal area. The following permit review process is offered as an option to local governments to avoid duplication in permitting and to allow local governments to play a meaningful role in the Coastal Area Management Program. By taking advantage of this option, local governments could exercise more direct control over permitting within their jurisdictions and become eligible for available 306 funds to enforce aspects of their codes that pertain to coastal area management.
- (2) Any local government issuing permits for uses which may have a direct and significant impact on the coastal area may submit a local code it uses to issue licenses and permits to the Department for the Department's approval. The Department may approve the local code with or without modification whereupon the local government may administer the local code in a manner consistent with the management program.
- (3) To apply for Department approval, the chief executive officer of the local government shall make a written application and attach a copy of the existing local code or a copy of a completed draft of a proposed local code. Upon receipt of the application, the Department shall give public notice, including notice to the local government, of the receipt of the application and of the opportunity for a hearing. The Department shall also begin its review process, initiate interagency coordination with the local government, and shall inform the local government of the type of information it needs to make an informed decision.

- (4) As expeditiously as possible the Department shall do one of the following:
- (a) Approve the local code with or without conditions;
  - (b) Disapprove the local code.
- (5) In order to be approved, it must be demonstrated that the local code shall be enforced in such a way that uses undertaken pursuant to licenses and permits issued pursuant to it will be in compliance with the management program. If a determination is made not to approve a local code, the reasons and supporting details for the disapproval of the local code shall be given to the chief executive officer of the local government along with the alternative means of complying with the management program.
- (6) Department approval remains valid until one of the following occurs:
- (a) The Department, on its own initiative, determines that the local code is not enforced as approved;
- (b) The local government fails to resubmit the local code three years after the last date of approval; or
- (c) The Department determines, after resubmission of a local code for approval, that it is no longer in compliance with the management program, and determines not to approve the local code as described in the application.
- (7) Once a local code has received Department approval, an application for a license or permit to conduct a use pursuant to that local code in not subject to the management program, except as set out in this Rule. A local code may be resubmitted for Department approval three years after the last date of approval. Review of a local code for reapproval shall follow the same procedure set out above. Once a local code has been submitted for reapproval within the prescribed time frame, permits and licenses may continue to be issued pursuant to the local code pending Department review.

(3) Under the local code review option, the chief executive officer of the local government shall forward to the Department any amendment made to an approved local code within two weeks after adoption, or a proposed amendment may be submitted to the Department prior to adoption. The Department shall then determine whether the amendment is in compliance with the management program as expeditiously as possible.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979. Amended: October 10, 1984; October 9, 1985.

8-1-.29 Variances. The Department may grant a variance from any requirement of this Chapter where the applicant therefor has demonstrated to the satisfaction of the Department that application of the requirement would be unduly restrictive or constitute a taking of property without payment of full compensation in accordance with the Constitution of the State of Alabama or of the United States. Any variance granted pursuant to this Rule may impose conditions and requirements to effectuate to the maximum extent the object of the rule for which a variance is sought without being unduly restrictive or constituting a taking of property without payment of full compensation in accordance with the Constitution of the State of Alabama or of the United States.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: October 9, 1985.

## 8-1-.30 Public Notice and Hearings

(1) After submission of a complete application but not less than fifteen days prior to rendering a decision on the issuance, modification, or denial of any permit or variance under this Chapter, or on the concurrence with or objection to a certificate of consistency for a use requiring a federal permit or license (including any use described in a plan for the exploration or development of, or production from any area leased under the Outer Continental Shelf Lands Act) or on the approval or disapproval of a local permitting program, or on the issuance, modification, or denial of a certificate of compliance for a use requiring a state permit, the Department shall provide public notice of the impending decision soliciting public comment thereon or shall require the applicant for the Department permit or

variance or federal permit or license to provide such notice in a manner prescribed by the Department. The public comment period shall be extended beyond fifteen days if warranted by the degree of likely public interest resulting from the unique geographic area involved, the substantial commitment of or impact on coastal resources, the complexity or controversy of the proposal, or other good cause. At the time of the public notice, all Department materials pertinent to the use described in the notice, including documents, studies, and other data, shall be made available to the public for review. If additional materials pertinent to the use are subsequently developed, they shall be made available to the public as they become available to the Department.

(2) The Department may provide an opportunity for a public hearing on the impending decision if any person has satisfactorily demonstrated that a relevant and significant issue cannot be effectively or fully communicated to the Department in writing or a significant public interest would be served thereby. Any public hearing provided shall be announced at least thirty days prior to the hearing date.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: October 10, 1984. Amended: October 9, 1985.

8-1-.31 Records. Any records, reports, or information obtained under this Chapter shall be available for public inspection and copying in accordance with Code of Alabama 1975, \$ 36-12-40, as amended, upon submission of a written request therefor. These records shall be maintained by the Department for a period of not less than three years.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: October 10, 1984. Amended: October 9, 1985.

# 8-1-.32 Monitoring and Enforcement

(1) The Department recognizes the importance of continued monitoring of uses in the coastal area and the enforcement of the management program for the successful achievement of the policies and purpose set forth by the Alabama legislature in Code of Alabama 1975, § 9-7-10 et seq., as amended. This Rule describes the various monitoring and enforcement alternatives that are available to the Department in implementing the management program.

- (2) The Department will monitor the conduct of uses which have been previously reviewed by the Department to ensure that they are carried out in a manner which is consistent with the management program. The Department has several approaches that it can use in monitoring these uses:
- (a) Periodic surveys or inspections. The Department or permitting agencies will inspect uses periodically through site visits, biological sampling, or other appropriate techniques.
- (b) Memoranda of agreement. The Department may enter into memoranda of agreement with other agencies to monitor uses which are subject to the management program.
- (c) Aerial survey. The Department may conduct aerial surveys where appropriate to verify the manner in which a use is being conducted.
- (d) Compliance monitoring. The Department will review data submitted to it or the permit agency by persons conducting uses in the coastal area to determine if the uses are in compliance with the management program as a result of conditions placed upon the uses during permit review.
- (e) Biological baseline analyses. The Department may develop a biological baseline to determine present levels of plants and animals and may conduct biological monitoring to detect changes in the levels of plants and animals of the coastal area. This monitoring activity may be in addition to other monitoring required by the management program as a result of the Department review. This activity may be coordinated with other state and local agencies so that duplication can be kept to a minimum.
- (3) The Department will also carry out a monitoring program to identify those uses subject to the management program which have not been submitted to the Department for review. Along with the monitoring activities described above, the Department may review any available sources of information to identify such activities, e.g. newspaper articles, agency reports, and information from private citizens.
- (4) If uses which are not in compliance with the management program are identified through the Department's monitoring activities, the Department will pursue remedies available to it under <u>Code of Alabama</u> 1975, § 9-7-10 et

<u>seq.</u>, as amended. The following paragraphs describe the various remedies which have been identified as enforcement mechanisms:

- (a) Notice of violation of the management program. The Department's initial step in enforcement may be to inform the permitting agency that the user's action is not in compliance with the management program. The Department may then work with the permitting agency and the user to determine what corrections can be made in the use that will bring the use into compliance with the management program.
- (b) Cease and desist order. If the Department determines that the use is causing degradation of the coastal area, the Department and permit agency may require the operation to be brought into compliance within a specified period of time, and if this requirement is not met the permit agency or the Department may issue a cease and desist order until the use can be brought into compliance with the management program.
- (c) Revocation of Department certification of consistency. If the use cannot be brought into compliance with the management program or if the user refuses to modify the use in a manner which will be in compliance with the management program, the Department may revoke its certification of consistency.
- (d) Judicial remedies. The Department and/or the permitting agency may pursue the judicial remedies set forth in Code of Alabama 1975, § 9-7-10 et seq., as amended, and other applicable state laws to obtain compliance with the management program.

Statutory Authority: <u>Code of Alabama</u> 1975, §§ 9-7-16, 22-22A-5, 22-22A-6, 22-22A-8. Effective: August 14, 1979.

Amended: October 10, 1984; October 9, 1985.

#### SECTION VIII. ADMINISTRATIVE PROCEDURES

- A. DESIGNATION OF GEOGRAPHIC AREAS OF PARTICULAR CONCERN AND AREAS FOR PRESERVATION AND RESTORATION
  - a. A proposal to designate a GAPC or APR may be made by the Advisory Committee or ADEM to the ADECA. If the ADECA elects to proceed with the proposed designation, public notice of the proposed designation shall be given along with opportunity for comment.
  - b. All GAPC or APR designations by the ADECA shall become effective upon the approval by the Governor.
- B. REVISION OF THE MANAGEMENT PROGRAM
  - a. Revision to the Management Program including any changes of the operational rules and regulations and any other changes in the substance and intent of the program shall be made according to the procedure set forth in Act 82-612.
  - b. A proposal to revise the Management Program may be made by the ADEM, Coastal Resource Advisory Committee, or ADECA. The ADECA shall examine the proposal in cooperation with the ADEM and Coastal Resource Advisory Committee. When a final determination is made on the extent and structure of the proposed revision a public notice of the proposal may be given along with opportunity for comment on the proposal.
  - c. Administrative procedures not requiring a change of substance in the policy of the ACAMP shall not require the approval of the Governor.
  - d. All revisions which, under applicable federal law, would be revisions to the federally approved program shall require the Governor's approval as well as any appropriate adherence to federal requirements to become effective.
- C. YEARLY REPORT ON THE STATUS OF THE COASTAL AREA

The ADEM and ADECA shall produce a yearly report on the state of the Coastal Area. This report will describe the status of coastal resources, quantifying the biological and other resources of the Coastal Area on an accounting basis. The information necessary for this report will be accumulated at a rate commensurate with program funding.

